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preservation OF NATURAL FEATURES AND SCENIC VIEWS IN NEW YORK CITY

CLARKE & RAPUANO/CONSULTING ENGINEERS/LANDSCAPE ARCHITECTS

HAINES, LUNDBERG & WAEHLER/ARCHITECTS/PLANNING CONSULTANTS

July 1974

NYC DCP 74-08

82pp. *Maise*
Appendix



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PRESERVATION OF NATURAL FEATURES AND SCENIC VIEWS is dedicated to the late Samuel Joroff, AIP, former staff member of the New York Department of City Planning whose vision and concern were responsible for launching the studies leading to this report.

INTRODUCTION

New York City has natural features of great beauty and areas that offer spectacular views. Increasingly, however, these are threatened.

The rock cliffs of Manhattan's Fort Tyron Park and the tidal marshes of Udall's Cove in Queens have been preserved as City parkland. Most of Jamaica Bay has recently gained permanent protection as part of the Gateway National Recreation Area. Many other natural features remain in private ownership, however, and are subject to varying degrees and types of development pressures.

For this reason, the Department of City Planning and the Office of Staten Island Development asked the consultants--Clarke and Rapuano, and Haines, Lundberg and Waehler--to undertake a study to establish ecological and aesthetic criteria for preserving natural features and scenic views and to develop the tools necessary for their preservation. This report is the result of that study.

Staten Island provides an example of how rapid new development can encroach upon resources. The Island's physiography--of scenic importance because of its north-south spine of serpentine ridges, their rock escarpments, creeks and marshy basins and the abundance of ponds and wooded slopes--remained largely unchanged as a result of the Borough's relative isolation from the rest of the City until 1964, when the Verrazano-Narrows Bridge was built. In the wake of subsequent development--mostly of detached and semi-detached housing--ponds have been filled, streams have been diverted, stands of trees have been leveled, hills have been scarred, and views have been blocked. As a result, the environment has suffered and problems of erosion and flooding have increased. It is only through eleventh hour campaigns that such unique areas as the High Rock Girl Scout Camp and Sailor Snug Harbor have been spared.

Although examples of natural features and scenic views worthy of preservation have been drawn from Staten Island, the preservation criteria and techniques developed are applicable to other parts of the City.

This report reviews preservation techniques used elsewhere in the country and indicates how to modify and/or combine them for use in New York City. It also suggests innovations in governmental structure and zoning legislation. In order to protect the City's natural features and scenic views most effectively, it recommends specifically that the City establish an Interagency Environmental Policy Board and a Conservation Council and adopt two new zoning districts: a Special Natural Area District and a Special Scenic View District.

CHAPTER I - RECENTLY DEVELOPED CONSERVATION TECHNIQUES IN THE UNITED STATES

The tools available for the preservation of natural areas and scenic views are many and varied. Most can be grouped into two broad categories: techniques for directing new development to conform to natural areas and techniques for acquiring and/or designating natural areas for preservation and public usage. To a large extent, these devices are interdependent--indeed, many techniques discussed could have dual application. For example, the Planned Unit Development concept is equally useful in directing development and providing for open space in natural areas.

It is clear that no single approach should be adopted to the exclusion of all others. The character and maintenance needs of a natural area, its relationship to its environs and the uses for which it is suited, should establish the most appropriate kind of ownership. Usage and ownership, in turn, will determine what types of preservation techniques might apply in each case. Selecting the best technique or combination of techniques will further depend upon the availability of City or private resources.

It should be noted that many of the alternatives presented would require State or Federal enabling legislation. Charter amendments, State bond issues or Federal funds. Alternatives requiring such action or funding could not be implemented immediately. Some of the other options,

such as the special assessment districts, would depend on citizens willingly assuming an increased tax burden which could not realistically be expected in many cases.

I. Directing New Development to Conform to Natural Areas Preservation Concepts

1. Public Works Policies and Programming - The consultants believe it is important that design standards and policies for public utilities be adapted to the preservation concept. The following recommendations are made as policy guidelines for the various City agencies:

- a) It is recommended that all utilities in Natural Area Districts be placed underground. This would include primary and secondary electrical services, street lighting, telephone and fire alarm systems.
- b) The layout and grading of new streets should be designed to follow the natural topography without excessive cuts or fills. The following table suggests standards for new development in Natural Area Districts:

	Zoning Districts		
	R-1	R-2	R-3
Min. Street Width	30'	40'	50'
Min. Pavement Widths	20'	24'	34'
Paved Sidewalks	None	Optional	4' Widths
On Street Parking	None	None	1 Side
Off Street Parking	2 Spaces per Lot	1 Space per D.U.	1 Space per D.U.
Cul-De-Sac Length (Max.)	900'	600'	500'
Cul-De-Sac Turnarounds			
Min. Diameter (Paved)	80'	85'	90'
Min. Roadway Widths	20'	24'	24'
Max. Street Gradient	18%	15%	12.5%
Min. Street Gradient	0.5%	0.5%	0.5%
Min. Radii at Intersection			
Property Lines	12'	None	None
Pavements	17'	14'	12'

In areas where legal streets have been adopted, the street plan as it affects the existing topography and natural features should be evaluated to determine whether the streets should be demapped with a new street change map substituted.

- c) The routing of water and gas mains should be carefully studied to preserve the unique natural features of the district. Consideration should be given to greater use of utility easements across private property. Water and gas mains within public rights-of-way should be designed around natural features worth preserving. Man-holes, hydrants, valve boxes and other surface structures

should be planned to meet the existing natural grade as close as possible.

d) Storm water trunk sewers should not be necessary in Natural Area Districts. Wherever possible, surface drainage should be allowed to collect in natural water courses which should remain open and unobstructed. In certain instances some underground sewerage, catch basins, drain inlets and manholes may be required; but, these should be kept to an absolute minimum. The sewer pipes should open into natural drainage swales or creeks.

e) Public sewers should not be extended into areas which the City is attempting to preserve in their natural states. Sanitary sewerage policies can directly influence the timing of developments. Cesspools or septic tanks have been banned except on lots of 10,000 square feet or more, so that new development is now dependent on the extension of public sewer lines or the construction of private systems.

2. Large Lot Zoning - Some of the unique natural areas in Staten Island may be acquired for public open space, and others may be privately developed. Any development in the hilly forested Greenbelt area should be at low densities. Present zoning in most of this area is R1-1, calling for minimum lot sizes of 10,000 square feet. A floor area ratio of 0.5 and lot coverage of up to 40 percent are allowed. To protect tree cover and

natural drainage and to avoid soil erosion, it would be desirable to increase the minimum lot size for single lots located on steep slopes.

It would also be desirable to allow Planned Unit Developments where development sites are less than one and one-half acres and to allow bonuses only for sites of 10 acres or more. It would frequently be possible to preserve the most important natural features by allocating some land to common open space or simply by varying lot size or shape and so providing flexibility in the siting of buildings.

Adherence to these standards would be helpful in limiting surface runoff and coping with drainage in low lying areas. It has helped in other parts of the country. Since 1960, Los Angeles has imposed a 15,000 square foot minimum lot size in all hillside areas where 5,000 square foot lot area requirements had formerly been in effect. In Los Angeles erosion has been a considerable problem. It is also a problem in the hilly areas of Staten Island.

3. Institutional Development Controls - Large institutions occupy some of the City's most beautiful natural terrain. Notable examples are the College of Mount St. Vincent and the Hebrew Home for the Aged in Riverdale, and Sea View Hospital, the Staten Island Community College, St. Francis Seminary and Eger Nursing Home in the Staten Island Greenbelt. The present

zoning regulations provide liberal bulk allowances for some community facilities, particularly in the R4 district where floor area ratios as high as 2.4 are permitted for selected community facilities compared to a maximum of 0.75 for residential uses. The zoning regulations also permit higher land coverage for approved community facility buildings.

High coverage in combination with the parking required in outlying areas poses a major threat to the natural landscape. Well forested land could be stripped if expanding institutions took full advantage of the high floor area ratio and coverage allowances of the present zoning regulations.

If regulatory approaches to natural area conservation are applied with reasonable consistency throughout an area, the bulk and coverage allowances for community facilities should perhaps be reduced. To achieve this purpose, special district regulations could make community facilities subject to the same open space and floor area ratio regulations as residential developments. Mandatory special review of community facility development plans under large scale development controls is desirable to insure that buildings are sited to protect natural features. This should supplement, not supplant, the proposed reduction of basic bulk allowances.

4. Special Police Power Regulations - In addition to the control of land use and density by traditional kinds of zoning regulations,

physical alteration and use of property can be regulated for other special purposes related to public health, safety and welfare, including the protection of natural resources.

- a) Control of tree cutting and grading - Many parts of the City are known for large and beautiful trees. In a few areas, mostly in Staten Island, there are extensive woodlands still in private ownership. These areas will eventually be developed. In the past, wooded areas have been cleared to facilitate large scale development. Indiscriminate tree removal is not only unsightly, but also results in excessive surface drainage and soil erosion (entailing increased municipal expenditures for drainage control). A number of cities recognize this problem and have subdivision regulations which control tree removal and regrading.

It should be possible to incorporate such controls in the regulations of special zoning districts or in existing low density districts. Builders would be required to show on a plan all existing trees over a certain size and to identify those slated for removal. Tree removals would be subject to the approval of the City Planning Commission. The regulations should discourage, by penalty, the cutting of trees in advance of development in order to circumvent the requirement. The removal of rock outcrops and glacial boulders, and the

excavation of steep hillsides could be subject to similar controls.

Wherever such controls are in effect it would be appropriate to modify the Zoning Resolution's yard regulations to afford greater flexibility in the siting of buildings. The regulations of the Department of Highways relating to Land Contour Work, (pursuant to Section 1105 of the New York City Charter), should also be modified to eliminate the general requirement of constant slopes in regrading.

- b) Special regulations for preserving tidal wetlands have been enacted and are enforced by the State of New York. A system of permits to regulate dredging and filling of tidal wetlands has been in effect since the passage of Section 719 of the New York State Conservation Law. A 1973 law (Chapter 790) now requires the Commissioner of Environmental Conservation to inventory and map all tidal wetlands in the State and to adopt land use regulations governing activity within and adjacent to them. Many wetlands in New York City are preserved as parkland already. The new law was to protect Alley Pond Park, a wetlands area in Northeast Queens, from the threatened damage by a proposed development on adjacent land.

The need for sanitary landfill and for legal street grades that are high enough to protect against inundation preclude the possibility of preserving all wetlands in their natural

state. In some tidal wetlands, the need for storm sewers draining nearby areas is also in conflict with the objective of wetlands preservation. Controls for the preservation of fresh water wetlands are currently being considered by the State for possible submission to the Legislature.

- c) Flood plain zoning - Flood plain zoning is not an appropriate long term method of preserving swamps and tidal wetlands.

Under the National Flood Insurance Program, areas with flood plain zoning are required to have insurance that conforms to the requirements of the U.S. Department of Housing and Urban Development. The requirements, which include filling of the land and the use of special construction materials and methods, cause new development within a designated flood area to be unusually expensive. This would delay development until pressures outweigh the increased costs and therefore would aid a natural areas preservation program only temporarily. Another requirement of this mandated Federal program--that public utilities and sewerage infrastructures must be elevated within the affected area--would clearly conflict with preservation program aims.

- d) Preferential assessment - Property tax increases tend to stimulate development, so that some proponents of temporary preservation of open space on the urban fringe have advocated a system of "preferential assessments." Under this

system, open land is taxed on its unimproved value, a lower figure than its market value. The resulting tax differential is called the forgiven tax. Some states, including New Jersey, provide for a tax recapture when the land is developed. The amount of the taxes forgiven during the last two years falls due when it is sold to a developer. This reduces the owner's windfall so that he is less anxious to sell and more content to keep the land open.

This mechanism is presently unavailable for lack of State enabling legislation. Although New York State studied the New Jersey law and other examples, it did not pass one of its own. Indeed, preferential assessment by itself is not very useful and could encourage undesirable development patterns and practices. However, it could be one part of a future natural areas preservation program.

A useful discussion of preferential assessment is found in Challenge of the Land by Charles E. Little. Little points out that low land taxes make the land more valuable for the speculator, who is thereby enabled to hold out longer. Land prices climb sharply in areas ripe for development, especially where low assessments are in effect and the land is held speculatively. The result is that developers seek lower priced land farther out--the only open land they can

afford.¹ This leapfrogging is a wasteful pattern of development. The device is one way of buying time, though an uncertain one, since speculatively held land might be sold at any time to a developer.

A two pronged approach utilizing preferential assessment might work. First, a special capital gains tax on profits from the sale of land would help to counteract the appeal of preferential assessments to land speculators. In addition, it could provide a useful source of funds for the acquisition of public open space. A recently enacted Vermont statute directed at land speculation imposes taxes on capital gains from land sales, the tax rate varying directly with the percentage of profit and inversely with the length of time the land is held.² Secondly, land which is designated on a plan as suitable for conservation and preferential assessment could be zoned for very low density development. Development, when it occurs, would also be required to take the form of Planned Unit Development, so that a major portion of the natural area could be preserved in the form of common open space.

¹See Challenge of the Land, An Open Space Action Institute Report, by Charles E. Little, 1968, pp. 72, 73

²32 Vermont Statutes Annotated Sections 10001-10010 of Chapter 236.

II. Acquiring and/or Designating Natural Areas for Preservation and Public Usage

1. Planned Unit Development (P.U.D.) - One of the many advantages of Planned Unit Development is the opportunity it provides for conserving natural features. Under the provisions of Article VII, Chapter 8 of the Zoning Resolution, Planned Unit Developments may be built in New York City subject to Planning Commission and Board of Estimate review and approval. The regulations permit part of the open space otherwise required on individual lots to be pooled in common open space areas and also allow flexibility in the yard regulations. One of the specific purposes of the Planned Unit Development regulations is "to protect and preserve scenic assets and natural features." These can be protected by designating them as the common open space or by leaving them intact through flexible siting of buildings.

However, there are presently some limits to what can be achieved. First, Planned Unit Developments in New York City are optional with the developer and up to now have not been utilized extensively. Secondly, patterns of property ownership, especially those which include many small or moderate sized holdings, are more likely to yield a crazy quilt pattern of common open spaces than a more desirable large, continuous natural area. Thirdly, the amount of common open space that can be pooled from individual lots is limited by the need for retaining a minimal standard of open space per dwelling unit on the individual lots

themselves. In special areas of the City where the conservation of natural features is important, it is reasonable for zoning regulations to require that plans for any new development be reviewed by the Planning Commission. The development plan for any tract which includes natural features to be protected would be specially reviewed in terms of the provisions made for their preservation.

The effectiveness of this approach would clearly depend on how large a part of the tract was occupied by natural features. Where development is limited to single family detached houses, a large part of the required open space must be provided on the individual home sites. With this type of development, on tracts largely comprised of natural features, only a minor portion of the area could be preserved, unless the owner donates or is compensated for the remaining portion. For large tract developments and those where the natural features comprise a minor part of the total area, this special application of Planned Unit Development could be very effective.

Planned Unit Developments of more than 10 acres can achieve a high quality of site planning by using street layouts and open space allocations to create their own environments. To encourage the assemblage of sites where these advantages can best be realized, there is justification for withholding some bonuses or waivers from developments on smaller tracts, as recommended in a recent report of The Advisory Commission on Intergovernmental

Relations.³ To achieve the same purpose more directly, the Douglas Commission recommended enactment of legislation by the states to enable local governments to place undeveloped outlying lands in planned development districts. Within these districts development would be allowed to occur only at a specified minimum scale.⁴ As of 1969, Los Angeles was studying an amendment to establish a Residential Planned Development District which, where mapped on hillsides, would require each development site to contain at least 20 acres in single ownership and where mapped elsewhere, at least one and one-half acres.⁵ The same type of district is included in the Proposed Puerto Rico Land Use Regulation and establishes 20 cuerdas (about 18 acres) as the minimum size for any development.⁶ By encouraging or mandating large Planned Unit Developments it would be possible to secure common open space in fairly large chunks. This would improve the chances of combining the open spaces into a coherent system to preserve natural features.

³See Urban and Rural America: Policies for Future Growth by The Advisory Commission on Intergovernmental Relations, 1968, page 115.

⁴See Building the American City by the National Commission on Urban Problems (Douglas Commission), 1968, page 246.

⁵See Framework Report - Comprehensive Zoning Plan Revision by Los Angeles Department of City Planning, 1969, pp. 27 and 30.

⁶Puerto Rico Land Use Regulations, a Proposal Submitted to the Puerto Rico Planning Board by its Special Consulting Group for Land Use Policies and Controls, 1969.

The extensive hilly areas of Staten Island's Greenbelt are a major natural resource. (See accompanying maps). It is doubtful that large areas of this kind, aggregating 100 acres or more, could be assembled from the common open spaces provided by Planned Unit Developments. To protect and preserve such large natural areas as these, Planned Unit Development would have to be supplemented or replaced by other approaches. Some natural areas possess outstanding recreational value as areas for walking, nature study and other non-intensive activity. These areas should be open to the public.

Common open space, as set forth in New York City's Planned Unit Development regulations, remains in private ownership and is privately maintained for the use of development residents. Most common open space so provided is for the satisfaction of local needs, and it is appropriate that it should remain private and that the City should not have the burden of maintaining it. Any areas appropriate for public use should be set aside as open space dedicated to the City or to an approved private conservation organization which maintains them for the benefit of the public. Many other communities take a different view and either allow or require all common open space to be deeded to the municipality. Some communities reserve the right to acquire or not acquire common open spaces in each case as deemed appropriate.

The amendment of the City's Planned Unit Development regulations passed on March 8, 1973 offers a new package of bonus incentives in R3-2, R4 and R5 Districts. By providing sufficient common open space and community facilities, enclosed parking and more than the minimum floor area per room, developers can qualify for sizeable increases in permitted floor area: up to 60 percent in R3-2, 113 percent in R4 and 52 percent in R5. The open space requirements are correspondingly reduced so that, for example, in the R4 District total open space requirements would be 22 percent less for buildings with more than twice as much floor area. With required open space per resident so drastically reduced, only a limited amount could justifiably be pooled in common areas to accommodate natural features. This suggests that for natural area districts mapped in R3-2, R4 or R5 Districts, with reliance on Planned Unit Development for preservation of natural features, the pre-1973 Planned Unit Development regulations should be restored. Alternatively, the underlying districts might be changed to lower density districts.

The 1973 Planned Unit Development amendment also requires that common open space be developed for active as well as passive recreation facilities and that passive recreation space be landscaped. These provisions conflict with the objective of preserving natural areas and should not apply in a special natural areas district.

2. Transfer of Development Rights - The owner of land designated for conservation could keep the natural area open and use development rights attributable to the natural area on adjacent land in his ownership, or convey the rights to owners of other land in the vicinity.

While higher densities would be permitted on the specific sites to which development rights were transferred, total permissible density throughout the area would not be increased. Open space would be pooled and development would be clustered. As in the case of Planned Unit Developments, there should be special review by the Planning Commission and Board of Estimate of all development plans in which bulk and density redistribution are proposed.

A key question is whether to permit development rights to be transferred from an area to be preserved in its natural state to non-adjacent development sites. The answer may depend on how the natural area is to be used. It would seem reasonable to permit the rights to be transferred even to non-adjacent development sites if the natural area is to serve as community open space for the residents of these sites, especially those living in developments whose densities were increased by virtue of the development rights transfer. To qualify as community open space, the natural area should normally be accessible to the community's residents.

A natural area can be useful without necessarily being accessible. Through the retention of water it can limit runoff and

the need for drainage construction. It is able to harbor plant and animal life and protect ecology. For the community residents it provides visual interest and relief from the man-made environment of streets, buildings and yards.

It is important to consider the practical implications of preserving natural areas for public use through transfer of development rights. There would be some advantages in making the transfer of development rights a willing buyer-willing seller transaction. The City would not be involved in the actual transaction, only in making it possible. In addition to passing the enabling legislation that would make the device operative, the City Planning Commission and the Board of Estimate would have to approve after public hearings, any development plan which includes dwelling types other than those permitted by the district regulations. Less basic modifications such as yard and open space adjustments based on the availability of the community open space and the quality of the site design could be authorized by the Planning Commission without Board of Estimate ratification, as in Planned Unit Developments. The exercise of the development rights would always depend on the development plan's approval by the Planning Commission at least, and this would affect the developer's approach to the purchase of development rights.

These considerations might militate against the willing buyer-willing seller method. Many owners of designated natural areas

would insist on selling their development rights immediately both for the cash return and for the reduced tax assessments. On the other hand, demand for the development rights will materialize only if there is a market for the kind of housing that would be built with them. Some developers would probably be inclined to continue building their particular specialties and pass up the opportunity to buy development rights.

It might be necessary to establish a public development rights bank to aid the owners of the natural areas, but the bank would have to have the funds to buy the rights. It would then have the problem of selling them to developers. A bond issue would probably be required to get the program started, but the proceeds of development rights sales would not be a predictable source of revenue for servicing the debt.

With adequate resources for compensating the owners, the designated natural areas could be preserved in this manner. The ability to carry out a plan for the use of these areas would depend on the attitudes and actions of their owners. A system of publicly accessible natural areas should be a part of some plans and would in fact be the sole justification for permitting the transfer of development rights to non-contiguous parcels. Some owners would be cooperative, welcoming the opportunity to be relieved not only of the development rights, but also of the maintenance responsibility and the fee title. Others, more interested in their own private enjoyment of the area than in its

development, would be averse to selling the development rights if this entailed public access. As holdouts, they could prevent the development of a continuous open space system for public use.

New regulations to permit such development rights transfer should not only provide for Planning Commission review but also should condition the transactions on the conveyance to the City of other interests and rights in the natural areas. These other interests and rights would in some cases be the fee title, the right of entry for maintenance purposes, public trail easements, or rights to public use of at least portion of the natural area for specified purposes. For the latter kind of easement the owner could be granted tax abatement.

In summary, the development rights approach cannot supply the whole answer to the problem of preserving natural areas. If it is used, it would clearly require a development rights bank with the necessary funds to purchase rights for resale if and when the demand materializes. The standards controlling developments which utilize transferred rights must be reasonably consistent with development objectives for the neighborhood. There should be public access to all natural areas from which development rights are transferred to non-contiguous development sites, and the City or a semi-public organization should have fee title or easements to assure the right of public access and use of these areas for appropriate purposes. These considerations all reflect

valid public concerns and point up the difficulties inherent in an approach which is theoretically based on private transactions.

5. Open Space Dedication or Cash-in-Lieu Contributions - This approach would rely heavily on cash contributions by developers to a fund for the purchase of natural open spaces specified on a comprehensive park plan. Where such natural open space is part of the developer's own property, he would be required to dedicate a portion equal to the amount of open space he would normally be required to provide on his lot. If the open space on his property designated for conservation exceeds the amount he would normally be required to provide, this excess natural open space would be purchased with the cash contributions from other developers.

Precedent of Subdivision Control. The right of municipalities to require the dedication of open space as a condition for subdivision approval is well recognized. There is ample precedent in required street and school site dedications. This requirement would be based on the need for recreation space generated by the development, the acquisition of which would otherwise impose a burden on the municipality. Under this type of provision a developer is required to dedicate a fixed amount of open space per dwelling unit in his development, or if none of his land is suitably located for public open space, he is required instead to contribute to a special fund. This money payment could be used to purchase natural areas or acquire

easements therein. New York City discontinued the exercise of its subdivision control powers a number of years ago. The fact that subdivision control at one time did not seem important enough to be continued is no reason why it could not be revived in light of new needs and opportunities.

However, for the purposes at hand, a requirement for open space dedication or cash-in-lieu contributions which depends on the subdivision of land into lots is less than adequate for New York City. On the other hand, if the requirement were applied through the zoning regulations, apartment developments could be required to contribute on the same basis as subdivision developments for individually owned houses. The size of the contribution would be geared to the number of dwellings not the building type.

For this approach to work, three basic conditions must be satisfied.

First, there should be a comprehensive plan of natural park sites for the community in which the regulations would apply. In the absence of such a plan, it would be difficult for the City to refuse to accept a developer's offer to dedicate open space within his own project instead of contributing cash toward acquisition of other areas in which the City is interested.

Secondly, the area in which the requirements apply must conform to the area which may be fairly considered to be served by the parks comprising the plan. The exemption of land close to and

well served by the proposed park system would clearly be discriminatory if more remote land is subject to the requirements.

Thirdly, the land to be acquired by dedication or purchased with cash contributions should for the most part be adaptable for recreation use. The park system must answer active or passive recreation needs of the subdivisions which contribute toward its acquisition. If a swamp or an escarpment of no recreation value were the only park area in the entire planned system within a reasonable service radius of a subdivision, the exaction of a cash contribution from this subdivision might be considered unreasonable.

The principal advantage of this approach is that natural areas ultimately can be acquired without cost to the City and without the sacrifice of development standards. In addition, the fact that the developer's contribution is mandatory gives this approach the clear advantage of greater certainty than that offered by the optional transfer of development rights.

In this approach, as in that of development rights transfer, there is the same problem of raising funds at the beginning of the acquisition process to purchase natural area land that owners wish to sell because they are not permitted to develop it. Cash contributions from developers would be likely to lag behind these owners' offers to sell. Therefore, pending the

accumulation of adequate funds from developers' fee payments, sufficient funds must be secured from other sources to compensate those owners with whom it is not possible to enter into deferred payment arrangements.

4. The Property Development Tax - A tax on all new residential development has been used in many cities to finance acquisition and development of park and recreation facilities. California communities have made extensive use of this tax.⁷ Under the tax device, open space dedication may be accepted by the City in lieu of the development tax payment,⁸ whereas under the zoning approach cash-in-lieu contributions could be required in lieu of open space dedication. State enabling legislation would be required to make this device available to New York City.

This approach resembles that of open space dedication or cash-in-lieu contributions, discussed in the preceding section. As a device for acquiring park land, the property development tax in common with zoning regulations has the advantage of applying to all development. It is not limited to developments that involve the subdivision of land. This has apparently been a major advantage commending the development tax to the California municipalities.

⁷American Society of Planning Officials, Planning Advisory Service, Report No. 266: Mandatory Dedication of Land or Fees-in-Lieu of Land for Parks and Schools by Mary E. Brooks, February 1971, pages 30-32.

⁸Ibid., p. 32

⁹Ibid., p. 30

The property development tax would apply throughout the City, but funds could be established with separate revenue and expense accounts for each community planning district, as in San Jose, California. Funds raised in the local area would be spent on facilities within that area.

5. Special Assessment Districts - This is a mechanism for self-assessment within a benefitted area. It is normally petitioned for by a local area and must be approved by a large majority of the owners. A charter amendment would be required.

This mechanism differs from others discussed in that all land owners within the local area to be served by the newly acquired open space, and not just developers, would contribute toward the cost of acquisition. Also, where this device has been used, the municipality as a whole generally bears a substantial part of the acquisition cost. The basic conceptual difference between the benefit assessment on the one hand and both the property development tax and the mandatory dedication of open space or contribution of cash by developers on the other is the difference between paying for special benefits and bearing the burden of public facility needs attributable to development.

A common feature of all the devices discussed, including development rights transfer as well as the others, is the earmarking of funds collected in an area for the acquisition of facilities to serve that area.

6. Additional Techniques - The varieties of public (or semi-public) interests that might be appropriate in natural areas such as Staten Island's Greenbelt will depend on the use of these areas by people, the maintenance or management requirements (if any) and the interests of the owner. Section 217 of New York State's General Municipal Law passed in 1960 establishes open lands preservation as a public purpose and authorizes expenditure of public funds for the acquisition of fee titles or lesser interests (i.e. easements) in such lands.

Some areas which should be preserved in their natural state do not have to be made accessible to the public. The acquisition of conservation easements would be appropriate in these areas. The interest to be acquired might simply be the development rights. The transfer of development rights from one property to another was discussed in Section 2 above. We are assuming now that the development rights would simply be relinquished and not exercised anywhere else. This is the simplest type of conservation easement. If development rights are acquired by the City, the owner would continue to enjoy exclusive rights to possession of the land and use of it for permissible activities such as gardening, passive recreation or camping. The City, by acquiring development rights instead of the full fee title, avoids maintenance responsibility and keeps the land on the tax rolls, though at a reduced assessment.

Conservation easements may, and often should, do more than remove the right to develop property. They may also include specific provisions allowing right of entry to perform special jobs which are necessary to preserve, maintain or restore a natural area or feature.¹⁰ Easements may also be acquired for maintenance of public trails across private lands. In the Staten Island Greenbelt the package of rights acquired from the owner might in some cases include all three types of easements -- development rights, right of entry and maintenance of trails, and possibly some others as well. A scenic easement may be acquired to preserve a view. This would restrict development on the owner's land, where total elimination of development rights is unnecessary, and would be an alternative to the use of zoning regulations for scenic view protection.

For natural areas which should be open to the public in their entirety for recreation use, even if only for hiking and nature observation, more than a conservation easement is needed, most likely a long term lease or full title. Acquisition could be by the City, the State or by a private non-profit conservation organization.

- a) Donations. Some owners, if given the opportunity, might be persuaded to donate a conservation easement to the City,

¹⁰See Conservation Easements by Charles C. Morrison, Jr. in NYS Environment, November 1, 1971 published by The New York State Department of Environmental Conservation.

to a conservation trust or to some other private non-profit conservation organization. Some would even be happy to donate fee title to their land. The motivation may be a combination of love for the land in its natural state and relief from burdensome property and income taxes. The value of the donation is deductible from gross income for purposes of income taxes. New York State law provides that for purposes of real estate taxation land restricted by an easement must be valued in accordance with the restrictions (Section 247 of the General Municipal Law). These tax benefits might compare favorably in some cases with the net benefits from transfer of development rights to a developer.

To maximize the potential of land donations, a program of land philanthropy should be organized. A grass roots program of this kind in Staten Island could be focused on the specific areas selected by the City for conservation in the Greenbelt and other areas of the Borough. Major landowners would be contacted for their consideration of land donations. The intent of the donor can be reflected in detailed provisions in the deed concerning the land's future use and maintenance. If it appears useful, a reverter clause can be included so that the land would automatically revert to its previous owner if the deed restrictions were not honored. To avoid weakening the

donor's ability to take income tax deductions, the right of reverter could be assigned to a third party.¹¹

Donations can also take the form of long term (99 year) leases to the City or a private organization for a dollar a year. The lease would be subject to termination if covenants designed to protect the area were violated. Many philanthropically minded persons are predisposed to make their donations to private organizations such as The Nature Conservancy or a local counterpart. Donors are apt to have confidence in such organizations, since they have but one purpose, that of conservation. Cities are beset with many kinds of conflicting land use needs and sometimes seem indifferent to philanthropic offers. However, they are actually or potentially excellent recipients themselves. With the establishment of a public conservation agency, New York City would be equipped to encourage land and money donations for conservation purposes.

The availability of funds to manage and maintain natural areas is an important consideration bearing on the capacity to accept land donations. Local governments are usually better equipped than private organizations to

¹¹For a good discussion of this subject, see Stewardship, by the Open Space Action Committee, 205 East 42nd Street, New York, N.Y., 1965, pp. 53-54.

undertake the maintenance and management services over a long period of time. The responsible private organization, while particularly interested in sanctuaries and other unique natural resources which require care as well as protection from the bulldozer, is generally reluctant to acquire such areas unless it is assured that it will have the capability to manage them adequately. Its interest in acquiring such areas is therefore apt to depend on the availability of endowment funds for their maintenance or access to civic volunteers to do the work free.

If the costs of managing certain kinds of natural areas, notably wetlands and wildlife sanctuaries, could be funded by the State or City, private organizations would be able to extend their land acquisitions considerably. Any assistance of this kind should be predicated upon public access to such areas. Land donations may be supplemented by charitable contributions to a fund for acquisition and maintenance of an outstanding local natural resource. This can be a very popular cause -- equally popular and very similar to the preservation of a notable landmark building.

- b) Federally aided acquisition. There are two major Federal programs for open space acquisition and development which provide a 50/50 match of Federal and local funds. One, the Department of Housing and Urban Development's Open Space Program is principally for acquisition, only

minimal amounts are for development. This program's emphasis has been on open space areas of moderate size in high density localities. Only limited Federal funds are currently available.

The other program is the Federal Land and Water Conservation Fund, administered through the State by the Bureau of Outdoor Recreation in the Interior Department. Grants under this program are for both acquisition and development. The local share can be raised by the City, the State or a private organization. A 13,000 acre wilderness tract in the Adirondacks was recently acquired under this program. The local share consisted of private funds contributed to the Adirondack Conservancy, a subdivision of The Nature Conservancy, which acquired the tract with the help of a Federal matching grant and turned it over to the State.

Land could be acquired for the City in the same way. As a prerequisite, a comprehensive park development plan must be filed covering at least an entire borough. With matching funds from the City, or a private group, application may then be made through the State to the Federal Bureau of Outdoor Recreation Land and Water Conservation Fund for a grant to acquire any park included on the plan. At the present time only limited Federal funds are available under this program.

The National Land Use Bill being sponsored by the Nixon Administration would merge Federal open space and environmental programs and funds. On a regional scale, it provides for the preparation of regional conservation plans, implementation, funding and management.

- c) State Programs. For New York City the most useful kinds of State programs for conservation of natural areas are:
 - 1) Those in aid of local municipalities dedicating publicly owned wetlands to conservation. So far this program applies only in Nassau and Suffolk Counties.
 - 2) Those involving state acquisition of unique natural areas or significant areas of open space near urban centers, as exemplified in the 1972 \$1.2 billion bond issue.
- d) City purchase with full payment deferred. If a designated natural area is to be acquired by the City, a temporary shortage of funds for purchase need not be fatal. By negotiating with a view toward understanding the landowner's needs and interests, economic and otherwise, it will frequently be possible to work out satisfactory arrangements whereby the City avoids a large immediate payment and still secures the area. NYS Environment, a publication of the New York State Department of

Environmental Conservation, lists several ways of stretching the dollar:

¹²"For example, the land may be purchased and then leased back to the original owner or to someone else. This takes the land off the tax rolls, which helps the original owner if he becomes a lessee. It also eliminates the speculative rise in land values which the open space agency would have to face if it bought the land at a later date."

"Another way of purchasing land and obtaining income from it to offset the purchase price is to have the property owner continue to occupy the land during his lifetime. Full payment may be postponed under this lifetime estate arrangement."

"A third approach is that of an option agreement. A parcel of land is divided into equal segments under this method. Each annual payment for one of the segments -- there usually are ten -- perpetuates the option to buy the next. During these installment payments, the remaining land will not be altered or developed because the option-agreement protects the buyer from this."

A simple first option is a useful technique for reserving the right to purchase an important natural area.

¹²\$\$\$: The Realities of Open Space Acquisition, by Charles C. Morrison, Jr. in NYS Environment, December 1, 1971, op. cit.

7. Use of existing City-owned land. In many areas where conservation is important the City already owns considerable land as a result of in rem proceedings for non payment of taxes. This and other City-owned land which may no longer be needed for a public purpose should be re-evaluated in terms of its usefulness in implementing a plan for preservation of natural areas.

The City-owned land which lies within areas suitable for conservation should ultimately be transferred either to the control of a City department charged with responsibility for conservation maintenance or, if public use and maintenance are not important, to a private purchaser subject to appropriate conservation easements including the withholding of development rights. Much of the City's in rem land consists of swamps or escarpments which became tax delinquent because they were not suitable for building. It would be a simple matter for the City to retain control of any of these areas which should be preserved in their natural state as surrounding land values increase and development pressures mount.

City owned land outside a designated natural area should go back on the tax rolls, but before disposing of it the City should be alert to any opportunities to exchange it for privately owned land inside the natural area.

8. Protecting Large Natural Areas--Special Problems and Potentialities - The proposed Special Natural Area District is designed to achieve maximum results through regulation. We have seen that small natural areas or features can be preserved under Planned Unit Development or similar zoning procedures. The conservation of larger areas solely through a regulatory approach is more difficult.

The San Francisco Bay Conservation and Development Commission in its report on the San Francisco Bay Plan was faced with a similar problem. To acquire all the bay front property which should be conserved for ecological and recreation purposes would be prohibitively expensive. Regulations prohibiting development of all such land would be unconstitutional. Therefore, the Commission proposed a third alternative which left open the possibility of limited filling and development on property mapped for conservation if no funds were available to buy it.

The protection of the few remaining large natural areas in New York City, such as the Staten Island Greenbelt, poses less of a problem, perhaps, than the protection of San Francisco Bay. But the nature of the problem is quite similar if less immense. If large areas are to be preserved as public open space, the development rights or the land itself must be purchased.

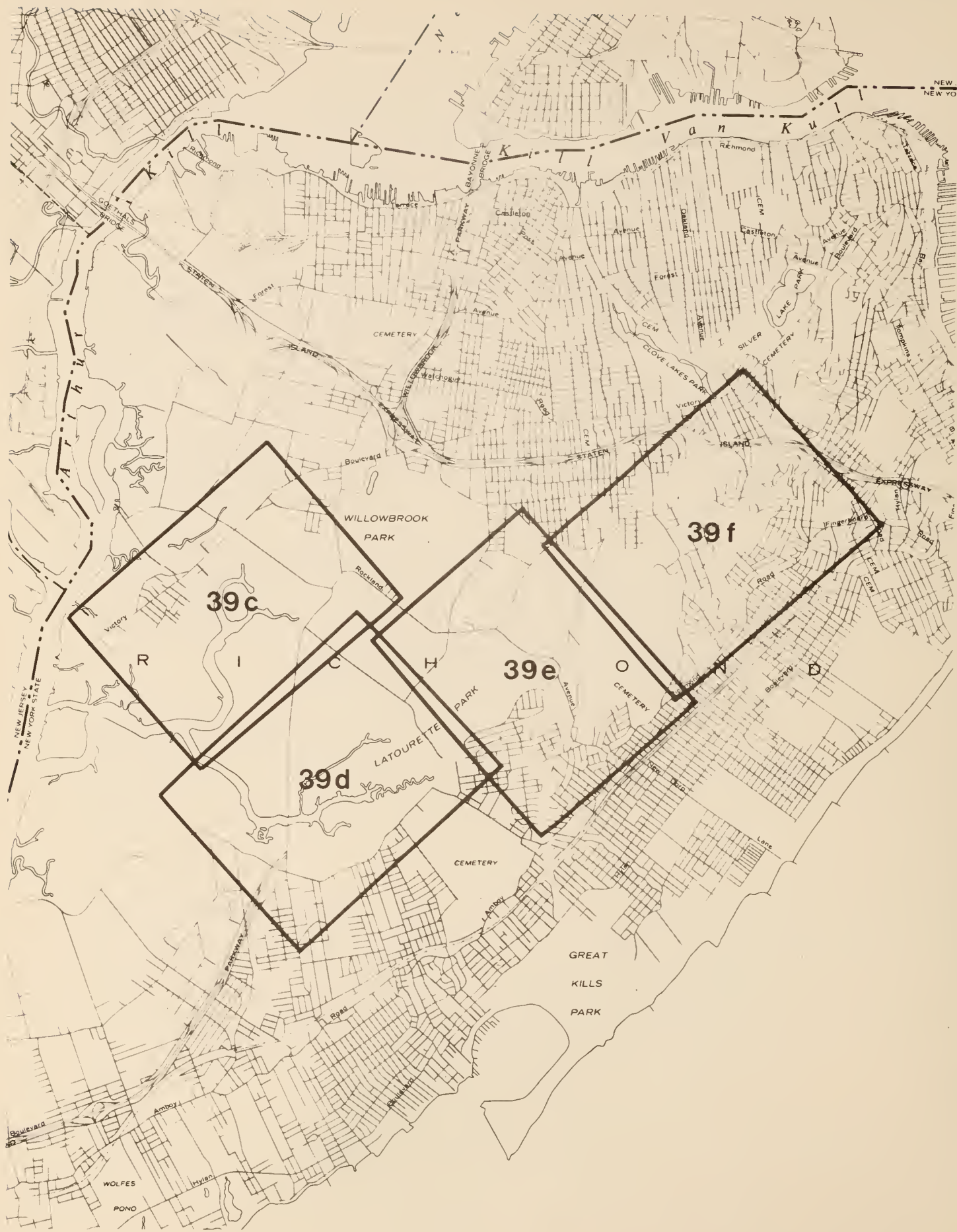
Summary

As discussed in the foregoing sections, there are numerous possible sources of funds for compensating owners of conservation land and covering maintenance costs. The four principal alternatives, with their varying degrees of practical possibility, are summarized as follows:

- a) Development rights transfer: this might be useful where two or more adjacent owners can reach an agreement, and this possibility is provided for in the proposed special district zoning regulations, which permit joint applications by adjacent landowners. However, it is not economically feasible for general application throughout a Natural Area District.
- b) Developers' cash-in-lieu contributions: this is not feasible unless the City establishes a revolving fund with a substantial initial deposit. If this condition were ultimately accepted, the device could be incorporated into the proposed special district zoning regulations.
- c) Property development tax: this technique, besides requiring the establishment of a revolving fund, would require state enabling legislation and would have to be applied throughout the City.
- d) Special benefit assessments: this would require an amendment to the City Charter, consent of landowners in each assessment district and payment of part of acquisition costs out of general City revenues. It is probably unrealistic to expect all of these conditions to be met.

Two supplementary devices hold considerable promise. Preferential assessments, possibly in combination with a capital gains tax on land sales, would require State legislation. Charitable donations of money or the land itself are always a possibility.

One problem is that acquisition funds may not be available as soon as they are needed. This is why it is important that the City be equipped with the skills needed to reach mutually beneficial agreements with landowners, employing such bargaining assets as continuing possession by the original owner with reduced taxes in return for deferral of total payment by the City. Negotiations require legal skills, an understanding of the management of natural areas and a full appreciation of the potentialities of private conservation organizations. It is also important for the City to be flexible in the kind of development it can permit so that the owner can realize a reasonable economic return on his property.



A. WETLANDS, BODIES OF WATER, WATER COURSES, ETC.

	LOW TIDAL MARSH
	HIGH TIDAL MARSH
	UPLAND SWAMP
	PONDS AND IMPOUNDED WATER
	STREAMS, CREEKS, AND BROOKS
	SURFACE DRAINAGE SWALES
	MOIST FIELDS OR MOIST SCRUBLAND

B. FORESTS, WOODLAND, AND OTHER NATURAL VEGETATION

	HEAVILY WOODED UPLAND
	SECOND GROWTH WOODED UPLAND
	DRY SCRUBLAND
	DRY FIELDS, PASTURE, OR GOLF COURSE

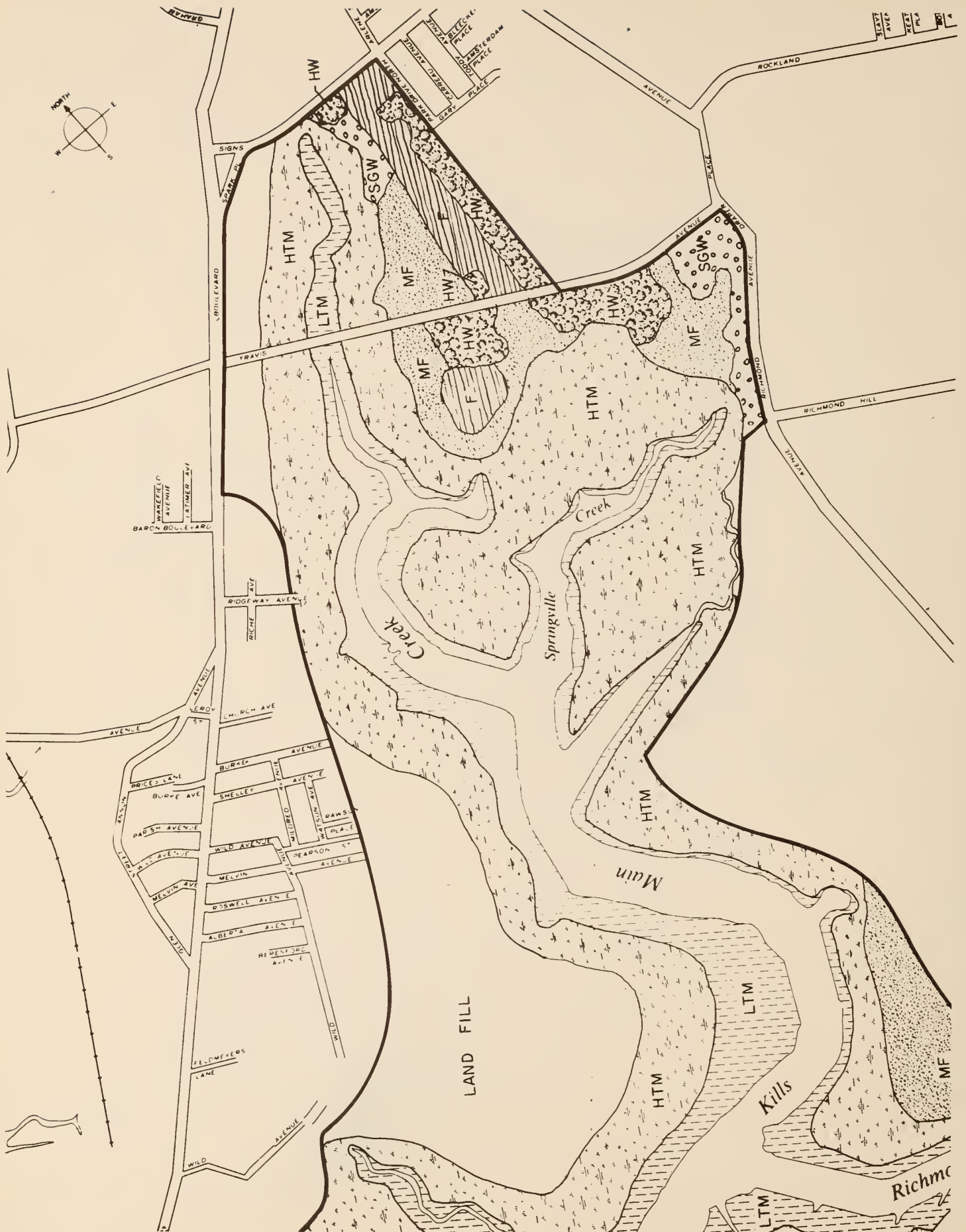
C. TOPOGRAPHICAL FEATURES

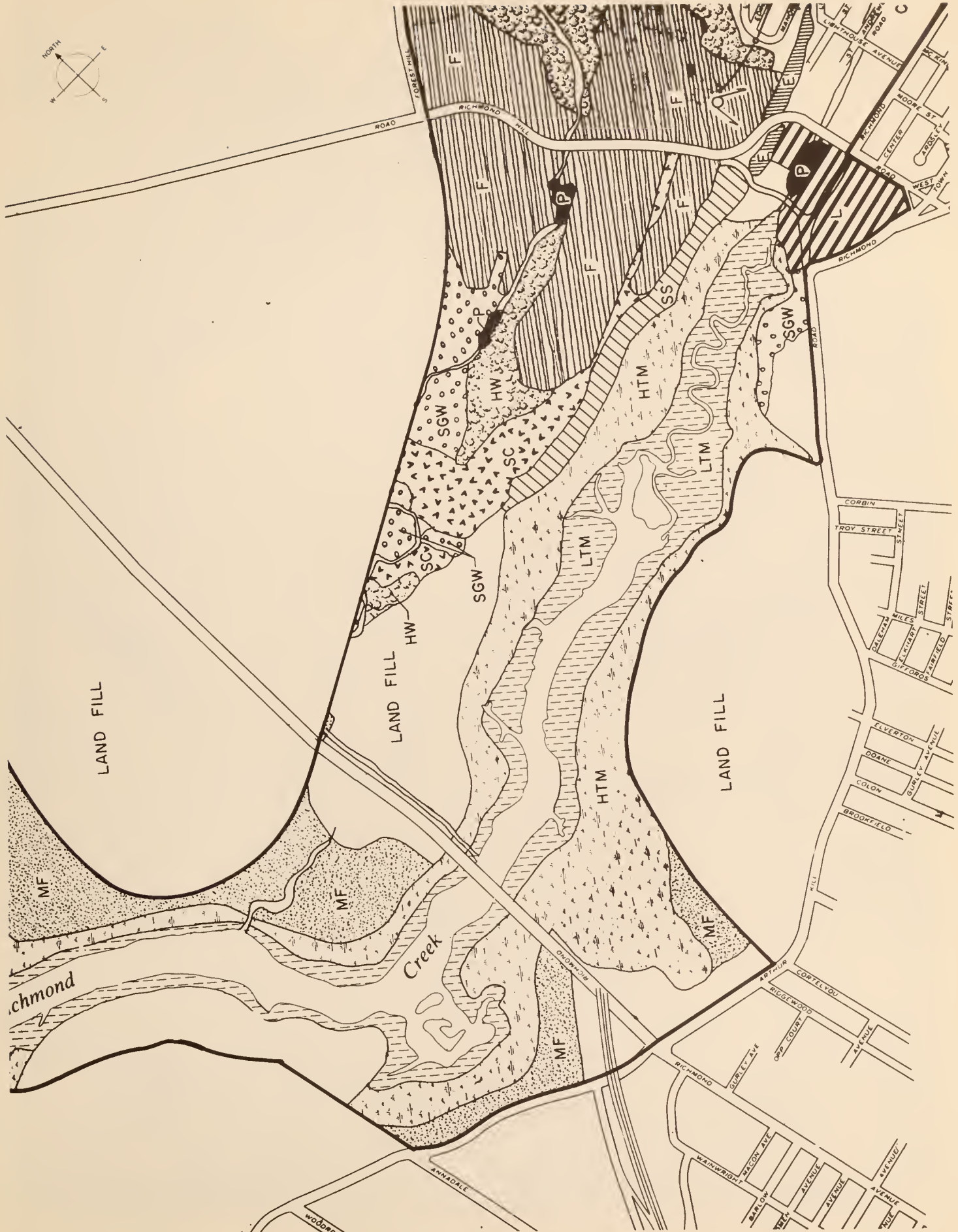
	ESCARPMENT (SLOPES OVER 40 %)
	STEEP SLOPES (GRADIENTS 25% - 40 %)
	ROCK OUTCROPPING, GRAVEL PITS, MINES, ETC.

D. SCENIC FEATURES

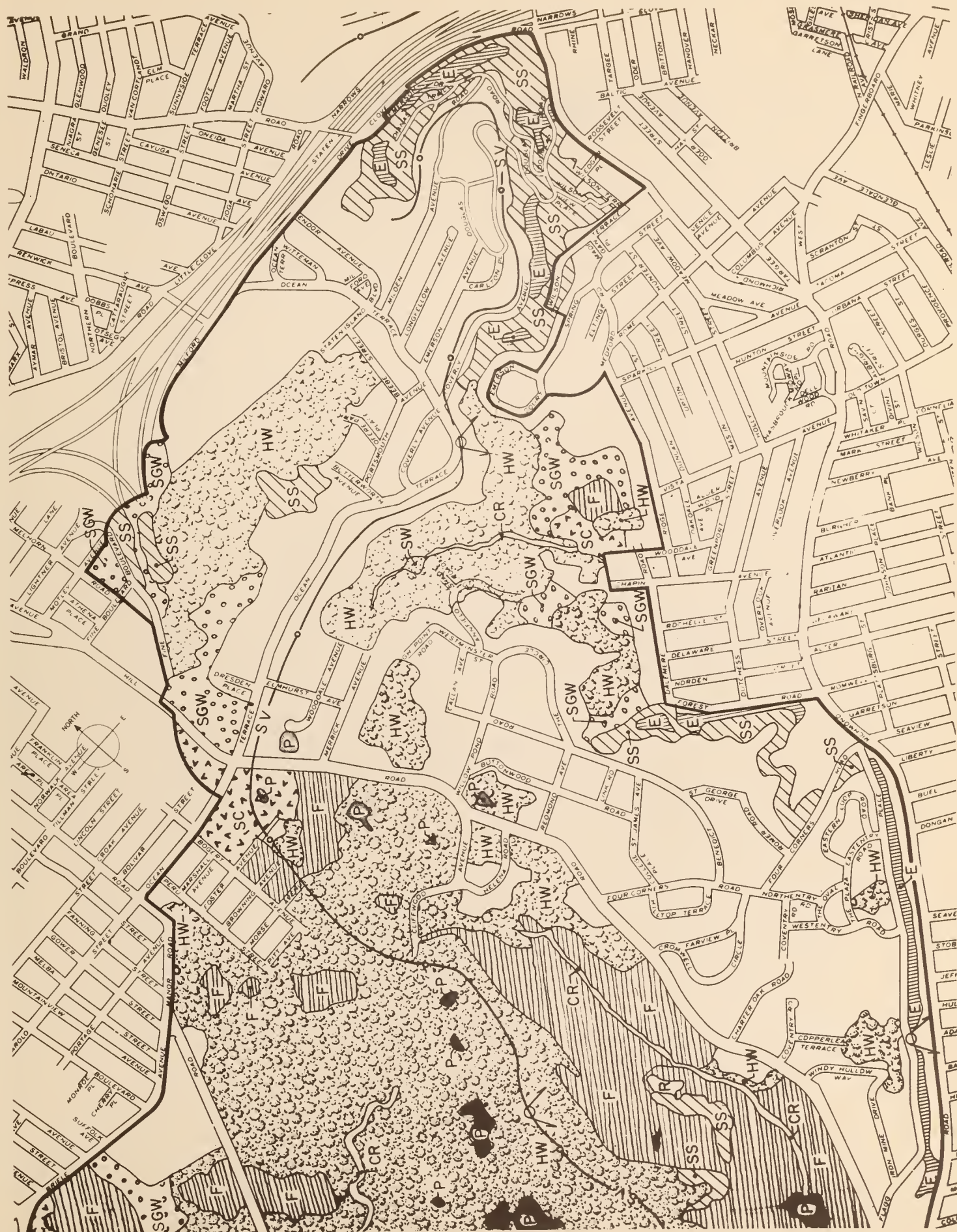
	OVERLOOKS & PROMONTORIES
	SCENIC VIEWS (HILLTOPS AND RIDGE LINES)
	HISTORIC LANDMARKS

NATURAL AREA INVENTORY MAP









CHAPTER II - ORGANIZATION REQUIRED FOR THE CONSERVATION OF NATURAL AREAS IN NEW YORK CITY

The City of New York has many agencies whose work is concerned with environmental protection. The City Planning Commission, the Environmental Protection Administration and the Parks, Recreation and Cultural Affairs Administration all have roles and functions in the areas of land resources, conservation and recreation, solid waste disposal, sewage and water and air pollution. No one agency, however, has a clear mandate to deal with vacant or semi-vacant areas, as such, which are valuable for either their ecological significance or natural beauty.

In seeking the most effective ways to organize administratively for the conservation of natural areas, the following four basic objectives must be considered: 1) The development of an over-all conservation policy; 2) the coordination of the programs and actions of the relevant agencies; 3) the provision of expert technical advice and supervision, and 4) the development of private finances and organizations to supplement government conservation program and funds--including management and maintenance functions.

A revised frame of reference for policy-making is essential to achieve a balance between the need for new development and the desire to protect, manage and, in some cases, to restore the City's remaining natural riches. Piece-meal and balkanized approaches to decision-making and program implementation should be avoided.

The present role of the Planning Commission in conserving key parts of the City's natural environment can and should be enhanced in the three following areas:

- Developing new legal, fiscal and administrative mechanisms along the lines of those recommended in this report.
- Strengthening staff resources in the area of conservation planning, and
- Establishing a broader and more adequate framework for reviewing the impact of future public and private development in natural areas.

This could be done by the Commission within its present broad powers and responsibilities. However, consideration should also be given to the creation of an interagency Environmental Policy Board to perform the over-all policy making and review functions as outlined in the following section.

A. An Interagency Environmental Policy Board

Since all major functions of government affect the environment, consideration should be given to an interagency board as an arm of the Office of the Mayor and the Board of Estimate to bring together the relevant agencies.

The Board would:

- Develop an over-all environmental policy based on a broad view of the facts and the pressures for change,
- Balance competing objectives and resolve policy conflicts related to the conservation of natural areas, and
- Coordinate the programs and actions of the relevant agencies.

There are five agencies which have roles and functions important to natural areas: 1) The Planning Commission, 2) the Parks, Recreation and Cultural Affairs Administration, 3) the Environmental Protection with its responsibilities in the areas of water, air and noise pollution, as well as solid waste disposal. Its mandate does not include land resources and natural areas and the conservation of land resources would not be a logical extension of its responsibilities; 4) the Transportation Administration or its sub-agency, the Department of Highways; 5) the Municipal Services Administration or its sub-agency, the Department of Public Works.

The last three agencies are responsible for policies and programs which would critically influence the conservation of natural areas. These spheres of influence include policies regarding construction, the design of streets, and sanitary landfill operations.

Perhaps the most important function of the Board would be to translate the growing concern relating to the conservation of natural areas into specific actions in a way that balances competing objectives and resolves policy conflicts. These conflicts arise perennially; for example, is the maximum cost efficiency of a sewer or local street system important enough to put a clear running brook underground or radically change the contours of a hillside in a natural area? Is the conservation of a natural area worth the additional tax dollars it would cost to re-align a proposed highway?

A related function would be the review of proposed public improvements, such as highways and sewage treatment plants as well as public, especially large scale, development. Ideally, this review authority would extend to private development proposals.

Suffolk County, as a case in point, has instituted an "environmental bill of rights" which requires an environmental impact statement using a prepared outline for all county projects and county action, such as the issuance of permits.

B. Conservation Councils

A new and promising government response to the problem and opportunities of environmental conservation is the creation of conservation councils or commissions of arms of government--county, city, town and village. This establishes a clearly defined focal point in local government for environment concerns.

As of June, 1973 there were approximately 1,500 local conservation commissions in New England, New York and New Jersey--an increase from approximately 850 commissions in the fall of 1971.

Massachusetts was the first with state enabling legislation in 1957. New York's state enabling legislation was enacted in 1967 and 1970. In 1970, enabling legislation was passed for the creation of the Department of Environmental Conservation and two bills were passed for

the creation of Conservation Councils--the first authorizing conservation councils for cities, villages and towns and the second authorizing establishment of county or regional environmental management councils.¹

The later bill subsequently recodified as Article 47 of the Environmental Conservation Law appears to be of particular value to the City of New York with its five counties. This legislation permits the creation of a county or multi-county environmental advisory council as an arm of government to deal with environmental problems and issues.

Councils formed under this law must prepare an annual report on the state of the environment and also must develop an environmental plan which must be coordinated with the State Environmental Conservation Plan. In all other respects, the capacity of county councils to protect natural resources, preserve environmental quality, conduct research, and coordinate activities resembles that of the more local councils.

The law also establishes a state program of financial aid to regional or county councils. These funds, administered by the State Department of Environmental Conservation and appropriated annually, cover up to 50 percent of the operating expenses of regional or county environmental management councils.

¹In preparing this chapter, extensive use was made of handbooks and other publications of the New York State Department of Environmental Conservation, the New Jersey Department of Environmental Protection, the Berkshire Natural Resources Council, Inc., and "Conservation Commission in Massachusetts", a Conservation Foundation Report.

By 1973, more than half of New York's 57 counties outside of New York City had formed these councils. Their combined budgets for 1973 totaled \$800,000 of which the State would reimburse half. Also by mid-1973, the number of local conservation councils in New York State had grown to 235.

The application of this legislation² to the City of New York would be the creation of a multi-county or regional council as an arm of the Mayor's office and the Board of Estimate. Its membership would consist of members-at-large appointed by the Mayor and ex-officio representatives of the relevant city agencies including, at minimum, the Planning Department, the Department of Parks and Recreation, and the Environmental Protection Administration. In addition, county or borough councils could be created for some or each of the five boroughs. A small technical staff would be needed to serve the city-wide council as well as the borough councils consisting of specialists in environmental planning and conservation.

The recommended roles and functions of a Conservation Council for New York City are:

- To provide expert technical assistance and advice. This would include screening the various areas proposed for environmental protection and recommending programs;

²The consultants in preparing this recommendation met with Mr. Charles C. Morrison, Jr., Director of Community Assistance, New York State Department of Environmental Conservation.

- to act as the City's official watchdog and advocate for the conservation of natural areas;
- to hold public hearings as do the Planning Commission, the Landmarks Commission and other City agencies;
- to bring individual citizens as well as citizen groups directly into the decision-making process and spotlight environmental issues;
- to be the conduit for receiving State and Federal funding;
- to form a non-profit land trust, as described below, to receive gifts of land, money, and conservation easements.

Land trusts have been very successful in other states, particularly in Massachusetts and Connecticut, as a primary mechanism for acquiring, maintaining, and managing land for conservation purposes.

Its primary function as related to the Mayor's Office, the Board of Estimate, the Planning Commission and other agencies would be advisory--to prepare recommendations as to plans and programs for the development and use of natural areas.

C. The Land Trust - Natural Area Conservation Through Private Action

Effective conservation of open space cannot depend solely upon government acquisition in fee--there is simply not enough public money available. For this reason, a primary focus of our effort has been to investigate and evolve ways to acquire open space through private, as well as public means, including such innovative land use, regulatory devices and administrative, legal and fiscal devices as described earlier.

A very successful device, which has been widely used in the Northeast, is the land trust which can benefit the landowner financially while promoting the conservation of natural areas. Land trusts make it possible to protect streams, valleys, greenbelts, and other natural areas. Land trusts can receive gifts of land or money, purchase land, receive or purchase scenic and conservation easements, develop other types of restrictive trust agreements with property owners as needed, and perform maintenance functions. They can hold the property or convey it to other private interests or to the government. Private institutions have helped to preserve \$10 million worth of private land for public or quasi-public open space uses in the New York City area alone.

There are apparently restraints in the laws of New York State which present obstacles to the creation of the New England type of local land trust. In the absence of a quasi-public institution, national, non-profit organizations can perform the functions of a land trust. The Nature Conservancy, for example, has 62 properties on Long Island and 100 in New York State.³

An outstanding success in the northeast is the Berkshire County Land Trust and Conservation Fund which was organized by the Berkshire Resources Council, Inc., a non-profit citizen-supported service agency which assists the towns and cities of Berkshire County in conserving

³Information on the Nature Conservancy activities in New York State was supplied by Mr. John T. Ricks, Chairman of the Long Island Chapter.

the natural resources of the Berkshire. The preferred and recommended approach of these two groups working in tandem is not to take land as gifts but to take easements and have the owners or properties continue to maintain them.

These private open space organizations benefit the public in many ways besides saving scarce public funds. Land use trusts can perform the troublesome and expensive function of maintenance. They can provide a broad based membership organization for concerted conservation actions such as advocating and supporting environmental bond issues, capital budget allocations and other related public activities. At the Federal, State and City levels, the time gap between authorization of purchase and appropriation of funds for open space can be significant and costs can rise precipitously in the interim. Land trusts and non-profit open space organizations can move quickly to secure options on the land and thereafter sell to the government at the original price.

Another major advantage is that many individuals who might be willing to donate land, or money, or partial use of their land are unaware of how to do so--or whom to contact. In addition, some individuals reluctant to donate land interests directly to local government may be willing to donate them to a non-profit land trust.

As the Municipal Conservation Commission Handbook of the State of New Jersey states: "The ingredients of a valid trust agreement are fairly simple--a valid public purpose, a trust property, a trustee, and a beneficiary. Where a landowner makes an agreement with a local trust

respecting the use of his land, his intention is the law. He may specify what he likes. He may or may not intend a gift, and he may, for example, retain certain interests or keep a like interest, or specify the right to revoke or amend the trust. The trust mechanism offers a way to preserve in perpetuity the restrictions which the landowner alone could not stipulate, for the trust itself can be immortal."

For the private owner the following benefits can be received through land trusts:

- Assurance that his original conservation intentions will be followed after his death, or after his sale of any remaining land interest to another party;
- Federal, and perhaps, State and local tax credit based upon his donation to a properly certified, charitable, non-profit organization;
- The opportunity to work with local groups (perhaps the local chapter of a national organization) and write his own requirements and wishes into an open space conservation agreement.

D. Summary of Findings and Recommendations

The findings and recommended actions necessary to organize, plan and administer a program of conservation for the City's natural areas can be summarized as follows:

1. The Planning Commission is a central agency. It has responsibilities for comprehensive planning which include the analysis and allocation of land and the development of policies and programs for the guidance of land use. It has powers to implement plans through zoning, has a key role in preparing the City Map and the City's Capital Budget, and has important review powers.
2. The present role of the City's planning agency as a force for conserving the City's natural environment should be further enhanced in the three following areas:
 - a. To continue to adapt old laws to new awarenesses and purposes as well as to develop new legal, administrative and fiscal mechanisms along the lines of those developed and recommended in this report as they may be needed in the future.
 - b. To strengthen its staff resources in the area of conservation planning.
 - c. To develop a broader, more adequate framework for reviewing the impact of future public developments on natural areas.
3. Consideration should be given to the creation of an interagency Environmental Policy Board as an arm of the Office of the Mayor and the Board of Estimate to bring together the relevant agencies to perform the following three tasks:
 - a. To develop over-all environmental policy based on a broad view of the facts and the pressures for change;
 - b. to balance competing objectives and resolve policy conflicts involving such factors as the cost - efficiency of public improvements as related to the conservation of natural areas;

- c. to coordinate the program and actions of the relevant agencies.
4. A Conservation Council should be created for the City of New York under the existing State enabling legislation to operate as an arm of the Mayor's Office and the Board of Estimate on conservation matters. Under this State enabling legislation, the City can serve as a multi-county or regional agency for its five counties or boroughs. County or borough councils should be set up for some or perhaps all of the five boroughs. The State Department of Environmental Conservation covers up to 50 percent of the operating expenses of regional or county environmental management councils. A small technical staff would be needed to serve the City-wide Council as well as the borough councils consisting of specialists on environmental planning and conservation.
5. The proposed New York City Conservation Council, when created, should be the instrument for initiating the formation of a non-profit land trust to supplement the City's conservation programs as well as to serve private conservation groups and private landowners. By working in concert with the City's conservation programs, a land trust can further protect the City's streams, valleys, greenbelts and other natural areas by receiving gifts of land and money, purchasing land, receiving or purchasing scenic or conservation easements, developing other types of restrictive trust agreements with property owners and performing maintenance functions as needed. The public can be served in many ways, besides the saving of scarce public funds, by using this instrument which can move with

speed and a minimum of red tape and can provide a broad based membership organization for concerted and meaningful conservation actions.

CHAPTER III(a) - PROTECTION OF NATURAL AREAS

A new chapter of the Zoning Resolution, Article X, Chapter 3, is proposed to protect natural areas. Many of the devices discussed in Chapter I of this report are included in these proposed new zoning regulations.

It is important to recognize that the largest natural areas can be protected only by means other than zoning. A number of methods to accomplish this, involving both public and private conservation efforts, or outlined in Chapters I and II of this report.

The regulations of the Special Natural Area District are set forth in Appendix A. This district can be mapped as an overlay district for any area which contains significant natural features worth preserving. The determination of the Special District boundary would be based upon aerial and ground photographs, taken at the time of designation and filed with the City Planning Commission.

Natural features to be protected through the provisions of the Special Natural Area District would be outstanding examples of the aquatic, plant, geological and topographical categories listed below:

Aquatic Features

Tidal wetlands, swamps, lakes, ponds, creeks, streams and brooks.

Plant Features

Individual trees of 6" caliper or more; flowering dogwood, birch and

fruit trees of 3" caliper or more; and rare plant material such as shrubs and aquatic plants.

Geological Features

Rock escarpments and glacial boulders.

Topographic Features

The District's natural terrain, especially slopes with an incline of 15 percent or more.

Wherever possible, these natural features will be protected as development takes place in the district. The prohibition of development within an area beyond the boundary of the natural feature itself may be essential in order to provide optimal conditions for the continued existence of the natural feature. In the case of tidal wetlands, swamps, ponds, lakes, creeks, brooks and streams, the area of concern extends beyond the natural feature itself to nearby tributary areas where the protection of natural vegetative cover is of vital importance. In the case of rock escarpments, boulders and individual trees, the setting as well as the natural feature(s) itself, is important. For plant features, protection of the root system is vital. Exposure to sun or shielding from winds may also be essential considerations. For the protection of steep slopes, it is important to limit grading and the disruption of existing vegetative cover to a practical minimum and to fit street and building layouts to the natural terrain. To guard against erosion, soil conditions must be considered.

Controls for the protection of natural features cannot, as a practical matter, be precisely defined. This is due to the fact that there is an

infinite variety of possible situations affecting the degree of protection which may reasonably be required in the planning of a development. The size, shape and topography of the development tract, and its relationship to a natural feature must all be taken into account in determining what protective measures can reasonably be required in the area affecting the natural feature. Within legislatively enacted guidelines, planning judgments must be made concerning the impact that developments can have on the highly vulnerable features whose preservation is adopted City policy. For these reasons, it is proposed that within the Special Natural Areas District, development plans should be subject to special review and approval by the City Planning Commission.

Every subdivision, development, institutional enlargement and site improvement on a vacant lot, would require a review by the City Planning Commission prior to the issuance of a grading or building permit. For such review, the applicant would have to submit a topographical survey showing land contours and the location of other natural features, along with other documents necessary to determine the impact of the proposal on natural features.

The City Planning Commission's review of development proposals would fall into three categories: certification, authorization, or special permit. A certification would be required when the development would have no impact on existing natural features. Authorization would be required when minor modifications of the underlying zoning district would be necessary to preserve natural features or, when modification

of existing topography, relocation of glacial boulders or removal of plant features would be necessary to allow development. A special permit would be required for modifications of use, or of yard, height and setback regulations beyond the limits established for authorization. In addition, a special permit would be required to alter certain natural features where development would not be feasible without such alteration. Any such modification of district regulations would be granted only after public hearings, and final approval by the Board of Estimate, so that community preferences can be voiced and considered.

Large scale development regulations would apply to the Special Natural Area District but bonuses would be permitted only on the tracts of 10 acres or more. Since the proposed special district regulations are designed to encourage maximum preservation of natural areas by allowing them to serve as common open space for clustered residential development, it is important to establish limits on the degree of concentration which can take place. The limits are contained in Section 103-70. For each of the seven underlying districts (R1-1 through R5), the tables set minimum lot area requirements for detached and other kinds of residences, minimum on-site open space requirements, minimum lot widths for detached and other types of residences. The total lot area and open space requirements of the underlying districts are not changed by these tables, which are addressed only to the lot area and open space requirements provided on individual lots. These requirements for individual lots augmented by common open space may not be less than the total requirements of the underlying district.

Adequate maintenance is a necessary part of preservation. For some features it may amount to very little, but because it is crucial to some, there are provisions in the Special Natural Area District regulations authorizing the City Planning Commission to require a satisfactory maintenance plan as a condition for approval of a new development or site improvement.

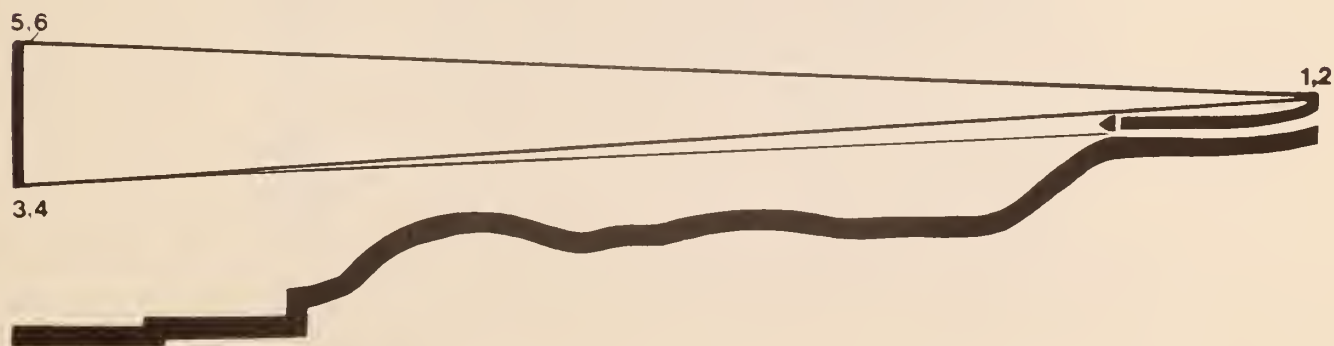
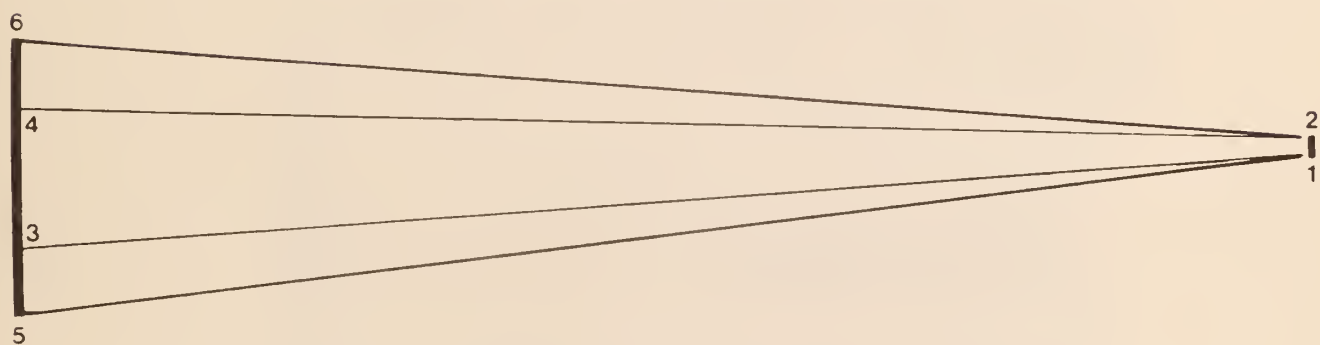
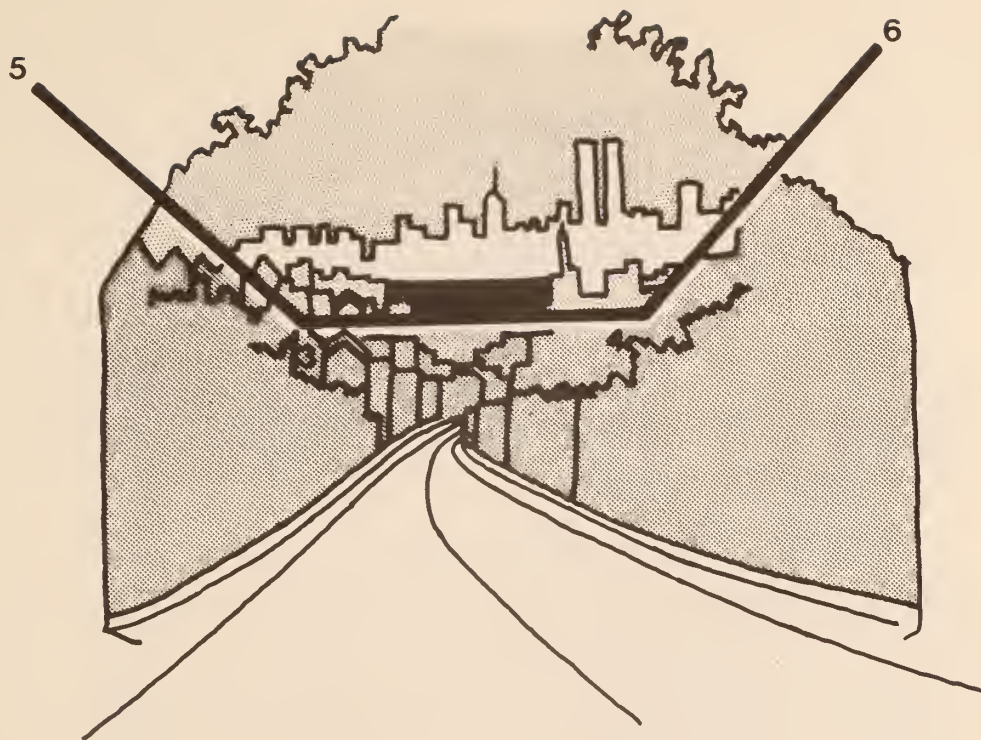
A natural area with significant recreation, cultural or educational value may be donated to the City or a conservation organization for public use. In this case, the natural area donated could satisfy open space requirements for the development site just as if it remained a part of it.

The Special Natural Area District may include tree planting requirements for lots where existing trees retained on the site are insufficient to meet the minimum requirement of one tree per 2,000 square feet of open space.

CHAPTER III(b) - SCENIC VIEW PROTECTION

Protection of scenic views should be for the benefit of the general public and the selection of views to be protected should conform to this criterion. Specifically, the viewpoints should always be from a City-owned park, and the views themselves should be outstanding or unique. Scenic view protection can be achieved by establishing a Special Scenic View District, as set forth in Appendix B, to include specific regulations for each view to be protected. Within each mapped Scenic View District, the height of buildings, signs or other structures thereafter erected or enlarged will be restricted by a scenic view plane(s) or other regulations so that a specified view as seen from a specified view reference line will not be obstructed.

For each Scenic View District (SV-1, SV-2, SV-3, etc.) the view reference line and the view framing line, which marks the lowest level of the view, or the view framing lines, which enclosed the view, are located. (See illustrations) A scenic view plane(s) is established by joining the end points (1,2) of the view reference line with the end points (3,4; 3,5; 4,6) of the view framing line(s). The area under the scenic view plane(s) is designated as the Scenic View District. Scenic View District regulations are designed to be administered by the Department of Buildings, However, when the regulations of the Scenic View District prevent development according to the underlying district regulations, the City Planning Commission and the Board of Estimate may allow, by special permit, minor penetration of the scenic view plane(s) or modification of certain regulations of the underlying district.



APPENDIX A

Article X

Special Purpose Districts

Chapter 3 Special Natural Area District

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ARTICLE X—SPECIAL PURPOSE DISTRICTS

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CHAPTER 3—Special Natural Area District

103-00 GENERAL PURPOSES

The Special Natural Area District (hereinafter also referred to as the "Special District") established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) To guide *development* in areas of outstanding natural beauty in order to protect, maintain and enhance the natural features of such areas.
- (b) To preserve land having qualities of exceptional recreational or educational value to the public.
- (c) To protect aquatic, botanical, geological and topographical features having ecological and conservation values.
- (d) To limit erosion associated with *development* by conservation of vegetation and protection of natural terrain.
- (e) To promote the most desirable *use* of land and direction of *building development* in accordance with a well-considered plan, to promote stability of *residential development*, to promote the character of the district and its peculiar suitability for particular *uses*, to conserve the value of land and *buildings*, and to protect the City's tax revenues.

103-01

Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are set forth in Section 12-10 (DEFINITIONS).

Development

For the purposes of this Chapter, a "development" includes the construction of a new *building or other structure* on a *zoning lot*, the relocation of an existing *building* on another *zoning lot*, the *use* of a tract of land for a new *use*, or an *enlargement* of a non-residential *building* or portion thereof.

To "develop" is to create a *development*.

Natural feature

A "natural feature" is a specific natural feature of outstanding quality belonging to one of the types listed in Section 103-10 (Natural features) and which is contained within a *Special Natural Area District*.

Special Natural Area District (repeated from Section 12-10)

The "Special Natural Area District" is a Special Purpose District designated by the letters "NA", in which special regulations set forth in Article X, Chapter 3 apply to *developments* or *site improvements*. The *Special Natural Area District* appears on the *zoning maps* superimposed on other districts, and its regulations supplement or modify those of the districts on which it is superimposed. The *Special Natural Area District* includes any district whose designation begins with the letters "NA".

Special Natural Area Districts may be mapped only in areas where outstanding *natural features* or areas of natural beauty are to be protected. The preservation of such areas is important because they contain areas of special ecological significance, interesting geological formations and rock outcrops, unique aquatic features such as tidal wetlands, unique topographic features such as palisades and hills, important plant features such as specimen trees or stands of trees or because they serve as habitats for

native flora and fauna. A *Special Natural Area District* may include one or more *natural features*.

Site improvement

A "site improvement" is:

- (a) an improvement which involves land operations such as land contour work, topographic modifications, excavating, filling, dumping, removal of trees, relocation of glacial boulders, modification of existing landscaping or any *natural features* on any vacant land or *land with minor improvements*; or
- (b) any type of land operation on any *zoning lot* for which a permit is required from the Department of Buildings or the Department of Highways.

103-02

General Provisions

In harmony with the general purpose and intent of this resolution and the general purposes of the *Special Natural Area District*, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter, in order to protect outstanding *natural features* described herein. Except as modified by the express provisions of this Chapter the regulations of the underlying district remain in effect.

The provisions of this Chapter shall apply to:

- (a) any *development* on a *zoning lot*;
- (b) any *site improvement* involving land operation for which a permit is required by the Department of Buildings or the Department of Highways;
- (c) any *site improvement* involving land operation such as land contour work, topographic modifications, excavating, filling, dumping, removal of trees, relocation of glacial boulders, modification of existing landscaping or any *natural features* on any vacant land or *land with minor improvements* for which no permit is required by the Department of Buildings or Department of Highways; and
- (d) any subdivision of a *zoning lot* existing on the effective date of this Chapter into two or more *zoning lots*.

Prior to issuance by the Department of Buildings and Department of Highways of an excavation permit or building permit for any *development* or *site improvement* within a *Special Natural Area District*, or for any *site improvement* for which no permit is required by the Department of Buildings or Highways, an application shall be submitted to the Commission for review and approval pursuant to Section 103-40 (Special Review Provisions). When a *zoning lot* existing on the effective date of this Chapter is subdivided into two or more *zoning lots* an application shall be submitted to the Commission for review and approval pursuant to Section 103-90 (Future Subdivision).

103-021

Requirements for application

An application to the City Planning Commission for certification, authorization or special permit respecting any *development* or *site improvement* to be made within the Special District shall include survey maps prepared by a registered surveyor showing topography, location and dimensions of existing *natural features* including trees and site plans showing proposed *development* and modification of *natural features* including the existing topography and other information necessary to indicate the authorization requested and its justification.

103-022

Action by the Board of Estimate

The Resolution of approval by the City Planning Commission, together with a copy of the application for the grant of a special permit, shall be filed with the Secretary of the Board of Estimate, and the Board of Estimate shall act upon such Resolution in accordance with the provisions of Section 200 of the New York City Charter.

103-023

Relationship to public improvement projects

In all cases, the Commission shall deny any application, whenever the *development* will interfere with a public improvement project (including highways, public buildings or facilities, redevelopment or renewal projects, or rights-of-way for sewers, transit, or other public facilities) which is approved by or pending before the Board of Estimate, the City Planning Commission, or the Site Selection Board as determined from the calendar of each such agency issued prior to the date of the public hearing on the application for a special permit.

103-10 NATURAL FEATURES

103-11

Description of Natural Features

All *natural features* shall be of outstanding quality. They shall be unique in terms of age, size, variety, ecological value or geological interest. Also, the preservation of the *natural features* may be necessary in order to protect natural habitats, and to avoid such adverse conditions as erosion and flooding.

All *natural features* defined in this Section shall be protected by the provisions of this Chapter.

A. Aquatic Features

1. Tidal Wetland

A tidal wetland is a tract of land which borders on or lies beneath tidal waters, such as, but not limited to, banks, bogs, salt marsh, swamps, meadows, flats or other low lands subject to tidal action, including an area now or formerly connected to tidal waters. A tidal wetland is characterized by such vegetation as salt hay (*Spartina patens* and *distichlis spicata*), black grass (*Juncus gerardi*), salt works (*Salicornia ssp.*), sea lavender (*Limonium carolinianum*), tall cordgrass (*Spartina pectinata* and *Spartina cynosuroides*), hightides bush (*Iva frutescens*), cattails (*typha latifolia*), groundsel (*Bacchairs halmiliifolia*) marsh mallow (*Hybiscus palustris*) and low marsh cordgrass (*Spartina alterniflora*).

2. Swamp not Subject to Tidal Action

A swamp is a tract of wet, spongy land, often surrounded by open water, but not associated with tidal activity. A swamp is a natural habitat for flora and fauna and may contain certain such trees as swamp maples (*Acer rubra*), willows (*Salix sps.*) and pin oaks (*Quercus palustris*), and other vegetation, such as willow herb (*Epilobium hirsutum*), and rose mallow (*Hibiscus moscheutos*).

3. Lake or Pond

A lake or pond is a body of fresh or salt water surrounded by land.

4. Creek, Stream or Brook

A creek, stream or brook is a natural free flowing water course which drains a watershed.

B. Plant Features

1. Specimen Tree

An individual tree which is a botanical example in terms of maturity and optimal growing conditions.

2. Other Individual Trees

Any flowering dogwood (*Cornus florida*), white birch (*Betula populi-folia*), grey birch (*Betula papyrifera*), black birch (*Betula lenta*), apple tree (*Malus sps.*), pear tree (*Pyrus sps.*) or cherry tree (*Prunus sps.*) of 3" caliper or more or any other tree of 6" caliper or more.

3. Stand of Trees

A group of three or more trees forming a cluster in which at least 50 percent of the trees are 4" caliper or more.

4. Rare Plants

Special plant material of rare quality including herbs, aquatic plants, shrubs and vines.

C. Geological Features

1. Rock Outcrop

A rock outcrop is the portion of a rock formation of geological value that appears at the surface of the earth.

2. Glacial Boulder

A rounded mass of rock deposited by a glacier.

D. Topographical Features

1. Steep Slope

Steep slope is ground which has an incline of 15 percent or more.

2. Existing Natural Topography

Existing natural topography is the ground elevation of land existing at the time of designation of a *Special Natural Area District*.

103-20 PROTECTION OF NATURAL AREAS

103-21

Protection of Natural Features

All *natural features* within a *Special Natural Area District* shall be protected by the regulations of this Chapter in accordance with the provisions set forth in Section 103-50 (Regulations for Protection of Natural Features).

All *natural features* described in Section 103-11 (Description of Natural Features) such as aquatic features, geological features, and topographic features shall not be removed, destroyed or altered unless permitted by special permit of the Commission pursuant to 103-43 (Special Permits) except for existing natural topography, glacial boulders and plant features which may only be removed, destroyed or altered by authorization of the Commission pursuant to Section 103-42 (Special Authorizations).

103-22

Protection of Scenic Views

Whenever a *Special Scenic View District* overlaps a *Special Natural Area District* the provisions of Article X, Chapter 2 *Special Scenic View District* shall also apply.

103-23

Protection of Existing Natural Topography

The natural topography existing at the time of designation of a *Special Natural Area District* on a *zoning lot* may be modified up to a depth of one foot cut or fill provided that the existing drainage pattern is not disturbed in the area. Modifications of existing topography beyond this amount may be permitted only by authorization of the Commission pursuant to Section 103-423 (Modification of existing topography). In the event that such existing topography is altered without prior authorization of the Commission, the Commission may require new grading or other topographical modifications to permit the site to blend harmoniously with the surrounding area of the Special District.

103-24

Protection of Glacial Boulders

On any *zoning lot* no glacial boulder with a diameter at any point of six feet or more shall be moved from its location at the time of designation of a *Natural Area District* unless permitted by authorization of the Commission pursuant to Section 103-424 (Relocation of glacier boulders).

103-25

Protection of Plant Features

On any *zoning lot* no live plant features shall be removed, destroyed or relocated unless permitted by authorization of the Commission pursuant to Section 103-425 (Removal of plant features).

103-30 TREE REQUIREMENTS IN CERTAIN SPECIAL NATURAL AREA DISTRICTS

Within certain *Natural Area Districts* the mandatory tree requirements of this Section shall apply. For any development within a *Special Natural Area District* in which tree requirements are made mandatory, there shall be at least one tree of at least 3 inch caliper, pre-existing or newly planted, for each 2,000 square feet of *zoning lot* area or fraction thereof. For the purposes of meeting this requirement, a pre-existing tree of 18 inch caliper or more shall count as three trees, and newly planted trees shall be of a species acceptable from the standpoint of hardiness, appearance and habit of growth suitable to the site.

103-40 SPECIAL REVIEW PROVISIONS

The provisions of this Section shall apply to all *developments* or *site improvements* located within a *Special Natural Area District*. Prior to the issuance by the Department of Buildings of an excavation permit or building permit for a *development* or *site improvement* on a *zoning lot* within a *Special Natural Area District*, the Commission shall certify to the Department of Buildings that no special authorizations or special permits are required for such *development* or *site improvement*. Where such special authorizations or special permits are required, the applicant shall apply to the City Planning Commission pursuant to Section 103-42 (Special Authorizations) or Section 103-43 (Special Permits).

The provisions of Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments) shall apply except as modified by the provisions of Section 103-701 (Applicability of large-scale residential development regulations).

All applications for such authorizations for *development* or *site improvement* within a Special District shall include a site plan and photographs showing the location and condition of such *natural features* for their verification with photographs on file with the Commission. Aerial survey

and/or other appropriate photographs for each *Special Natural Area District* shall be on file with the Commission on or about the effective date of Special District designation.

103-41

Certification by Commission

When the applicant for a *development* or *site improvement* does not seek a special authorization or special permit, the Commission shall certify to the Department of Buildings that no special authorization or special permit is required pursuant to this Chapter.

Where mandatory tree requirements of Section 103-30 (TREE REQUIREMENTS IN CERTAIN SPECIAL NATURAL AREA DISTRICTS) apply or where *natural features* are to be protected and maintained under Section 103-60 (MAINTENANCE OF NATURAL FEATURES), the Commission shall indicate specific conditions and safeguards appropriate to the designated area.

103-42

Special Authorizations

For a *development* or *site improvement* on a *zoning lot* located within the *Special Natural Area District*, the Commission may authorize:

- (i) modification of *lot area*, *lot width*, or yards and coverage regulations in order to preserve existing *natural features*, topography, trees and *glacial boulders* pursuant to Sections 103-421 (Modification of yard and coverage regulations) and 103-422 (Modification of lot area or lot width requirements); or
- (ii) modification of existing natural topography pursuant to Section 103-423 (Modification of existing topography); or
- (iii) relocation of *glacial boulders* pursuant to Section 103-424 (Relocation of glacial boulders); or
- (iv) removal of plant features pursuant to Section 103-425 (Removal of plant features).

103-421

Modification of yard and coverage regulations

For any *development* within a *Special Natural Area District*, the Commission may modify *yard* and coverage regulations up to the amounts set forth in Section 103-704 (Special yard and coverage regulations) where the Commission finds:

- (a) that such modifications are necessary to preserve existing *natural features*, topography, trees or *glacial boulders* in order to achieve the general purposes of this Chapter; and
- (b) that such modifications will have no adverse effects upon the the access of light and air to adjacent properties.

103-422

Modification of lot area or lot width requirements

For any *development* which includes or will include after subdivision two or more *zoning lots* which are contiguous or would be contiguous but for their separation by a *street*, the City Planning Commission may grant special permit authorizations as follows:

- (i) For any *zoning lots* in such *developments*, the Commission may authorize the minimum required *lot area* as set forth in Section 23-32 (Minimum Lot Area or Lot Width for Residences) to be reduced, where such reduction is appropriate in order to avoid

dividing the ownership and maintenance of a natural feature provided that a greater number of *zoning lots* is not thereby created than would otherwise be permitted by the applicable regulations of the underlying district and provided that such reduced *lot area* complies with the special development controls as set forth in Section 103-703 (Special lot areas and lot width controls).

(ii) For *zoning lots* in such *developments* which are located in an underlying R1-1 or an R1-2 District, the Commission may authorize the minimum required *lot width* as set forth in Section 23-32 (Minimum Lot Area or Lot Width for Residences) to be reduced, where such reduction is appropriate in order to avoid dividing the ownership and maintenance of a *natural feature* or where such *zoning lots* are adequately served by common *open space*, provided that such reduced *lot width* complies with the special development controls as set forth in Section 103-703 (Special lot area and lot width controls).

(iii) For *zoning lots* in such *developments* which are adequately served by common *open space* or whose required *lot area* or *lot width* is reduced in accordance with the provisions of subparagraph (i) or (ii) hereof and where the provisions of Section 103-25 (Protection of Plant Features) are applicable, the Commission may authorize maximum coverage as set forth in Section 103-421 (Modifications of yard and coverage regulations) to be increased as necessary and within the general intent of such coverage restriction.

As a condition for granting such special authorizations, the Commission shall find that such authorizations will aid in preserving existing natural features.

103-423

Modification of existing topography

The natural topography existing at the time of designation of a *Special Natural Area District* may be modified by the Commission beyond the amount specified in Section 103-23 (Protection of Existing Natural Topography), provided that the Commission finds:

- (a) that *development* on a *zoning lot* is not feasible without such modification;
- (b) that such modification will not disturb the drainage pattern in the area;
- (c) that such modification of topography has minimal impact on the existing natural topography of the surrounding area and blends harmoniously with it.

The provisions of this Section shall not apply to areas with an existing slope of more than 15 percent which shall be subject to the provisions of Section 103-505 (Steep slope).

103-424

Relocation of glacial boulders

No *glacial boulders* with a diameter at any point of six feet or more may be moved from their location at the time of designation of a *Natural Area District* to another location within the Special District except in compliance with the provisions of this Section.

Prior to the moving of a *glacial boulder* from its present location to a location elsewhere within the *Special Natural Area District* an application shall be filed with the City Planning Commission showing the present location and the proposed location. Moving of a *glacial boulder* will be permitted only by authorization of the Commission under the following circumstances:

(a) Where such boulders are located in areas to be occupied by *buildings*, driveways, parking areas or recreation areas and it is not possible to avoid such location by minor adjustments in the arrangement of such *buildings*, driveways, parking areas or recreation areas on the site;

(b) Where the boulders' continued existence in their present location would create special hazards or dangers;

(c) Where authorizations granted by the City Planning Commission under the provisions of this Chapter require or clearly contemplate the boulders' relocation from its present position.

In issuing authorization under this Section, the Commission shall require an appropriate relocation site, visible, if possible, from a public street, park or public place—preferably on the *zoning lot* or elsewhere within the *Special Natural Area District*. The Commission may prescribe appropriate conditions to enhance the setting of the relocated boulders and safeguards to protect the character of the *Special Natural Area District*.

103-425

Removal of plant features

No plant shall be removed or land operations affecting plant features undertaken by or on behalf of present or future applicants for building permits except in compliance with the provisions of this Section.

Prior to any such removal, applications shall be filed with the City Planning Commission showing the location of all plant features indicated in Section 103-11 (Description of Natural Features) and identifying those which are proposed to be removed. Removal of existing live plant features will be permitted only by authorization of the Commission under the following circumstances:

(a) Where plant features are located in areas to be occupied by *buildings*, driveways, parking areas or recreation areas or within a distance of 15 feet of the exterior walls of such *buildings*, and it is not possible to avoid such location by minor adjustments in the arrangement of such *buildings*, driveways, parking areas or recreation areas on the site.

(b) Where located in areas which require excessive cut or fill of land deemed inimical to plant survival.

(c) Where the plant features' continued presence would create special hazards or dangers.

(d) Where the plant features' continued presence would interfere with the development of a superior specimen tree.

(e) Where authorizations granted by the City Planning Commission under the provisions of this Chapter require or clearly contemplate the plant features' removal.

In issuing authorizations under this Section, the Commission may prescribe appropriate conditions and safeguards to protect the character of the *Special Natural Area District*.

103-43

Special Permits

For any *development* or *site improvement* on a *zoning lot* within the Special District, the City Planning Commission may by special permit after public notice and hearing and subject to Board of Estimate action grant special permits for modification of the underlying district regulations in accordance with the provisions of Section 103-431 to Section 103-434 inclusive.

103-431

Modification of use regulations

In addition to any *use* modifications which may be granted under the provisions of Section 103-701 (Applicability of large-scale residential development regulations), the City Planning Commission may grant special permits to allow semi-detached or attached *single-family residences* not permitted by the applicable regulation of an underlying R1-1, R1-2, R2, or R3-1 District.

As a condition for granting such special permits the Commission shall find:

- (i) That the preservation of natural features requires the permitted *development* to be concentrated in the remaining portion of the tract, and
- (ii) That for such concentration of *development* better standards of privacy and usable *open space* can be and are achieved under the development plan by inclusion of the proposed *residential building* types.

103-432

Modification of yard and height and setback regulations

For any *development* the Commission may authorize minor variations in required *front, rear* or *side yards* beyond the amount set forth in Section 103-421 (Modification of yard and coverage regulations) and may modify height and setback regulations for the purpose of preserving *natural features*, if the Commission finds that the proposed replacement of *buildings* and arrangement of *open spaces* will not have significant adverse effects upon the light, air and privacy for existing *development* in adjacent areas or the opportunities therefor in future *development*. The Commission may condition such authorizations upon the joint submission of acceptable plans for *development* of two or more adjacent *zoning lots* by the owners thereof.

103-433

Alteration of natural features

All *natural features* other than plant features, existing topography or *glacial boulders* for which removal or modification is authorized pursuant to Section 103-425 (Removal of plant features), Section 103-423 (Modification of existing topography) or Section 103-424 (Relocation of glacial boulders) within a *Special Natural Area District* shall be preserved and maintained in their natural state.

Alteration or removal of *natural features* on a *zoning lot* may be granted by special permit of the Commissioner where *development* is not feasible without such alteration or where alteration is necessary to protect the health and safety of the site occupants. As a condition for such modifications, the Commission finds that the *development* as authorized will result in the minimum interference with *natural features* that must be permitted in order to allow reasonable *development* and *bulk* distribution under the regulations of the underlying district.

The Commission shall impose appropriate conditions and safeguards to assure protection of those portions of the area to be preserved in their natural state.

103-434

Natural area dedicated for public use

Where commonly or separately owned areas containing *natural features* of exceptional recreational, cultural or educational value to the public

is dedicated to the City without any cost to the City, pursuant to Section 103-701 (Applicability of large-scale residential development regulations), the Commission may by special permit allow such portion of the *zoning lot* to be included in the zoning computation for *floor area, open space, lot area per room* requirements and other bulk computations.

103-44

Conditions for Certification, Authorization or Special Permits

The Commission may certify or grant authorizations or special permits for any *development* or *site improvement* within the Special District provided the *development* or *site improvement* complies with the provisions of the following Sections:

Section 103-50 (REGULATIONS FOR PROTECTION OF NATURAL FEATURES)

Section 103-60 (MAINTENANCE OF NATURAL FEATURES)

Section 103-70 (SPECIAL REGULATIONS FOR RESIDENTIAL DEVELOPMENT)

Section 103-80 (JOINT APPLICATIONS)

The provisions of Section 103-50 (REGULATIONS FOR PROTECTION OF NATURAL FEATURES) establish regulations for the review of *development* or *site improvement* plans by the City Planning Commission from the standpoint of the protection they afford for designated *natural features*. Plans which are deficient in this regard may be rejected or required to be modified, even though they comply with all other applicable regulations of this Chapter.

The provisions of Section 103-60 (MAINTENANCE OF NATURAL FEATURES) establish requirements for the maintenance of *natural features*. Approval of development plans subject to such requirements is conditioned upon the City Planning Commission's approval of a maintenance plan.

Section 103-70 (SPECIAL REGULATIONS FOR RESIDENTIAL DEVELOPMENT) deals with the City Planning Commission's powers to grant modifications of the applicable regulations of the underlying districts for predominantly *residential developments* so as to permit greater flexibility in the location of *buildings* and in the distribution of *bulk*, density and *open space* and thereby facilitate the protection of natural areas or features or the preservation of natural terrain.

As a condition for certification, authorization or issuance of a special permit by the Commission, the Commission shall find that all proposed *developments* or *site improvements* blend harmoniously with the *natural features* and topography of the surrounding area within a *Special Natural Area District*.

103-50 REGULATIONS FOR PROTECTION OF NATURAL FEATURES

The provisions of this Section establish regulations for the review of *development* or *site improvement* plans by the City Planning Commission from the standpoint of the adequacy of protection for *natural features* within a *Special Natural Area District*.

These regulations are to be used by the Commission in reaching a determination whether to approve or disapprove *development* or *site improvement* plans filed pursuant to Section 103-42 (Special Authorizations) or Section 103-43 (Special Permits).

103-501

Tidal wetland or swamp

Tidal wetlands or swamps are valuable in terms of marine food production, wildlife habitat, natural treatment of pollution and recreation.

For natural tidal wetlands or swamps, the area of concern is both the *natural feature* itself and its nearby surrounding watershed, whose *use or development* might affect the *natural feature*.

The area shall be developed in such a way as to avoid impairment of the ecological function of the wetlands or swamps. Therefore:

- (a) any filling, dumping, draining, excavating or dredging shall be controlled to avoid such impairment;
- (b) there shall be maximum feasible preservation of natural vegetational cover particularly in the area immediately adjacent to the marsh or swamp;
- (c) grading shall not create steep slopes or conditions causing soil erosion in the local watershed, in connection with which soil permeability shall be considered; and
- (d) adequate provision shall be made for proper management and maintenance of the feature and its immediate surroundings to avoid pollution or other sources of ecological damage.

103-502

Lake, pond, creek, stream or brook

Lakes, ponds, creeks, streams or brooks are valued for their natural beauty and for their usefulness as elements of a natural drainage system. Brooks and creeks in particular should be considered in relation to any other natural aquatic features by which they are fed. The area of concern is the *natural feature* itself and the nearby surrounding watershed whose *use or development* might affect the *natural feature*. The prevention of pollution, silt deposits, flooding and obstruction of natural drainage are major concerns relating to these features. Therefore:

- (a) land operations directly affecting one of these *natural features* shall be limited to those which respect or facilitate natural drainage and cause minimum disturbance of the feature's natural setting;
- (b) there shall be maximum preservation of natural vegetational cover in the local watershed area, and grading in the area shall avoid the creation of steep slopes or conditions causing soil erosion;
- (c) *development* shall be restricted to areas sufficiently removed from the natural feature to avoid impairment of its natural beauty or function; and
- (d) adequate provision shall be made for proper maintenance of the *natural feature* and its immediate surroundings.

103-503

Plant features

Plant features are natural assets. Where plant features such as individual trees, *stands of trees*, and special plant material exist, *developments* should be planned so as to preserve those plant features described in paragraph B of Section 103-11 (Description of Natural Features) insofar as possible, and, where complete preservation is not feasible, to preserve those which are the most outstanding public assets. In evaluating development plans, the Commission shall give due consideration not

only to the number and selection of trees or other plants to be retained on the site, but also to the continuation or enhancement of the conditions necessary for their survival, continued health and full natural growth and development. The Commission shall also consider the extent to which the development plan affords visibility and enjoyment of such trees or plants from public *streets* or places.

103-504

Rock outcrop and glacial boulder

For the preservation of rock outcrop or *glacial boulders* of more than six feet in diameter, site *development* shall be such as to leave them intact in their natural setting and, where feasible, visible from public *streets* or places.

103-505

Steep slope

For a steep slope, the primary concerns are the preservation of natural beauty and the prevention of hillside erosion, landslide, and excessive run-off. Additional concerns arise where the steep slope area is part of the watershed of a brook, creek, pond, marsh or swamp as set forth in Sections 103-501 (Tidal wetlands or swamps) and 103-502 (Lake, pond, creek, stream or brook.) Accordingly:

(a) For *residential developments* entirely within a steep slope area, the *lot area per dwelling unit* shall not be less than 12,500 square feet. For individual *zoning lots* within a steep slope area, where higher densities are justified by comparatively flat topography or other conditions, the City Planning Commission may permit deviations below the minimum average *lot area per dwelling unit*, provided that such minimum average *lot area per dwelling unit* is maintained for the *development* as a whole. *Development* may be concentrated in clusters to preserve extensive portions of steep slope areas in their natural state as common *open space*, provided that such clusters are limited to areas of comparatively flat topography and will not require extensive grading on adjacent slopes or the creation of new steep slopes.

(b) Existing vegetative ground cover in steep slope areas shall not be removed, destroyed or damaged except pursuant to *development* and grading plans approved by the City Planning Commission. An objective of such plans shall be to fit *street* layouts and *building* designs to the natural terrain, limit grading to a practicable minimum and provide for maximum feasible preservation of the natural terrain and vegetative cover.

(c) Grading, storm drainage and landscape design shall make adequate provision for the prevention of soil erosion.

(d) Development plans shall be based on a study and report on soils and related *development* requirements by a qualified soils engineer.

103-60 MAINTENANCE OF NATURAL FEATURES

For any *development* or *site improvement* on a tract of land within a *Special Natural Area District*, the City Planning Commission shall require a maintenance plan for a *natural feature*. Where a maintenance plan is required, approval of the development plan and the granting of special authorizations shall be conditioned upon the Commission's approval of the maintenance plan.

The maintenance plan shall specify what the maintenance is to consist of and whose responsibility it will be, and shall provide assurance that maintenance will be satisfactorily executed. The Commission, in considering the main-

tenance needs of a particular feature and the content of an acceptable maintenance plan, shall, where appropriate, refer all relevant plans to the Department of Parks or other City agency with primary responsibilities in natural areas conservation, for its report thereon. The Commission shall, in its determination, give due consideration to any such report submitted within one month from the date of referral. If such agency does not report within one month, the Commission may make a final determination without reference thereto.

A maintenance plan may include, where appropriate, an agreement between the owner and the City for the donation of a maintenance easement to the City.

For *natural features* for which the Commission determines that specialized maintenance and regulated public use are appropriate, the maintenance plan may provide for dedication of the *natural feature* to the City or an approved private conservation organization for responsible maintenance in the public interest. Such dedication shall not create any zoning noncompliance hereunder.

103-70 SPECIAL REGULATIONS FOR RESIDENTIAL DEVELOPMENT

In order to carry out the purposes of this Chapter all *developments* used predominantly for *residential use* shall be subject to the provisions of this Section.

103-701

Applicability of large-scale residential development regulations

The provisions of Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments) shall apply except as modified by the provisions of this Section.

Any *development* used predominantly for *residential uses* shall be treated as a *large-scale residential development*, and special authorizations pursuant to Section 78-311 (Authorizations by the Planning Commission) or special permits pursuant to Section 78-312 (Special Permit Authorizations) for such *development* may be granted in accordance with the provisions of Article VII, Chapter 8, as modified herein or in Section 103-80 (JOINT APPLICATIONS), regardless of whether such *development* will have the area, number of *buildings* or number of *dwelling units* specified in the definition of *large-scale residential development* as set forth in Section 12-10 (DEFINITIONS).

However, bonuses which may be granted for *large-scale residential developments* under the provisions of Section 78-32 (Bonus for Good Site Plan), or Section 78-33 (Bonus for Common Open Space) may not be granted for *developments* which have less than 10 acres and less than the number of *buildings* or number of *dwelling units* required by the definitions of a *large-scale residential development*.

Commonly or separately owned areas containing *natural features* may qualify as common *open space* for purposes of satisfying *open space* requirements in *residential developments*.

Approval by the City Planning Commission of a development plan incorporating *natural features* as common *open space* shall be conditioned upon the findings required in Section 78-313 (Findings) and Section 78-52 (Common Open Space) with respect to the qualification of areas as common *open space* and upon additional finding that appropriate safeguards are provided for the protection and preservation of such *natural feature*.

In the case of *natural features* which are determined to have qualities of exceptional recreation, cultural or educational value to the public

and which are directly accessible to the public from a public right-of-way, the applicant may request the City to take title or a less than fee interest in the property occupied by such natural feature without any cost to the City or its designee for use and enjoyment by the public subject to appropriate regulation.

103-702

Special development controls

Except for *large-scale developments* for which bonuses are granted pursuant to Section 78-32 (Bonus for Good Site Plan) to Section 78-35 (Special Bonus Provisions) the total *floor area* and total number of *dwelling units* or *rooms* on a tract of land which is the subject of application under the provisions of this Chapter shall not be greater than the amount or number permitted by the applicable regulations of the underlying District, and the total *open space* on such tract, including any common *open space*, shall not be less than the amount required by the applicable regulations of the underlying district.

103-703

Special lot area and lot width controls

Any *development* within the *Special Natural Area District* for which minimum *lot area* or *lot width* requirements as set forth in Section 23-32 (Minimum Lot Area or Lot Width for Residences) is reduced by the Commission pursuant to Section 103-422 (Modification of *lot area* or *lot width* requirements) or Article VII, Chapter 8, such reductions shall in no event be less than the standards set forth below:

Special Development Controls For All Zoning Lots Served by Common Open Space

Minimum Standards	Underlying Districts			
	R1-1	R1-2	R2	R3, R4 & R5
Detached Residence:				
Lot Area (in square feet)	5,700	4,750	3,400	3,400
Lot Width (in feet)	60	50	40	40
Semi-detached Residence:				
Lot Area (in square feet)	4,750	3,800	2,550	1,700
Lot Width (in feet)	50	40	30	20
Attached Residence:				
Lot Area (in square feet)	3,800	2,850	1,700	1,530
Lot Width (in feet)	40	30	20	18
Open Space Ratio	150	150	75	40

103-704

Special yard and coverage regulations

For any *development* within a *Special Natural Area District* for which the Commission authorizes modification of *yard* and *lot coverage* regulations pursuant to Section 103-421 (Modification of *yard* and *coverage* regulations), such modifications shall in no event be less than the amounts set forth below:

**Yard and Coverage Regulations
Special Natural Areas District**

Regulations		Underlying District		
A. <i>For Detached Residences</i>		<i>R-1</i>	<i>R1-2</i>	<i>R2, R3, R4, R5</i>
Minimum Front Yard	10'	10'	10'	10'
Minimum Side Yard	10'	5'	5'	5'
				(No Change)
Minimum Total Side Yards	20'	15'	13'	13'
				(No Change)
Minimum Rear Yard	25'	25'	25'	25'
Maximum Lot Coverage ¹	30%	30%	30%	30%
B. <i>For Other Types of Residences</i>		<i>R3</i>	<i>R4</i>	<i>R5</i>
Minimum Front Yard	10'	10'	10'	10'
				(No Change)
Minimum Side Yard	No Change	No Change	No Change	No Change
Minimum Rear Yard	No Change	No Change	No Change	No Change
Maximum Lot Coverage	40%	45%	50%	50%

¹ Maximum lot coverage may only be modified in conjunction with modification of yard regulations.

103-80 JOINT APPLICATIONS

Notwithstanding the provisions of Section 78-06 (Ownership) a tract of land which is the subject of an application for special authorizations or special permits under the provisions of this Chapter may include adjacent property in more than one ownership, provided that the application is filed jointly by the owners of all property included. Any subdivision of the tract reflecting ownerships at the time of application or creating new ownerships before, during or after *development* shall be subject to the provisions of Section 78-51 (General Provisions).

103-90 FUTURE SUBDIVISION

Within a *Special Natural Area District* any *zoning lot* existing on the effective date of this Chapter may be subdivided into two or more *zoning lots* provided that *natural features* to the greatest extent possible are preserved under future development options.

A plan for such subdivision shall be filed with the Commission and the Commission shall certify that such subdivision complies with this objective. The subdivision plan shall include a survey map indicating existing topography and other *natural features* within this area. When a *zoning lot*, existing on the effective date of this Chapter is more than 10 acres and is intended to be subdivided, an area plan of the entire *zoning lot* shall be filed with the Commission. The area plan shall include the proposed street system within the area, block layouts and any other information required by the Commission.

103-91 SPECIAL DISTRICT DESIGNATION ON PUBLIC PARKS

When a *Special Natural Area District* is designated on a *public park* or portion thereof, any *natural features* existing on the effective date of this Chapter within such area shall not be removed, destroyed or altered unless authorized by the City Planning Commission. As a condition for granting such authorization, the Commission shall find that such authorization is consistent with the intent of the *Special Natural Area District*.

103-92

SPECIAL PROVISIONS FOR CITY-OWNED LANDS

For any *development* or *site improvement* on a city-owned *zoning lot* located within a *Special Natural Area District*, the provisions of Section 103-40 (SPECIAL REVIEW PROVISIONS) shall apply except that modifications permitted under Section 103-43 (Special Permits) may be approved by authorization of the City Planning Commission.

103-93

SPECIAL NATURAL AREA DISTRICTS SPECIFIED

103-931

Special Natural Area District 1—Emerson Hill, Todt Hill, Lighthouse Hill and the central wetlands area of Richmond

The central serpentine hilly spine of Staten Island is composed of three hills: Emerson Hill, Todt Hill and Lighthouse Hill. These hills are richly endowed with steep slopes, rock outcrops, glacial boulders and ponds, lakes, swamps, creeks and mature trees.

To the south and west of the serpentine hills are tidal wetlands, a habitat for marine life and water fowl. The wetlands include parts of Latourette Park, Fresh Kills Park and New Springville Park. The high and low wetlands of Latourette Park and New Springville Park and most of the low wetlands of Fresh Kills Park remain in their natural state. The purpose of this *Special Natural Area District* is to preserve and protect the aforementioned *natural features* pursuant to the provisions of this Chapter.

The tree planting requirements set forth in Section 103-30 (TREE REQUIREMENTS IN CERTAIN SPECIAL NATURAL AREA DISTRICTS) shall apply to all *developments* within the area north of Richmond Hill Road and east of Forest Hill Road.

APPENDIX B

Article X

Special Purpose Districts

Chapter 2 Special Scenic View Districts

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ARTICLE X SPECIAL PURPOSE DISTRICTS

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CHAPTER 2—Special Scenic View Districts

102-00 GENERAL PURPOSES

The Special Scenic View District (hereinafter also referred to as the "Special District") established in this Resolution is designed to promote and protect public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (a) To preserve, protect and prevent obstruction of outstanding scenic views as seen from a mapped *public park* or an esplanade or a mapped public place directly accessible to the public.
- (b) To promote the most desirable *use* of land and direction of *building development*, to assure the maintenance and enhancement of the aesthetic aspects of scenic views, to conserve the value of land and *buildings* and to protect the City's tax revenues.

102-01

Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are as set forth in Section 12-10 (DEFINITIONS).

Scenic View

A "scenic view" is an outstanding or unique view from a mapped *public park* or an esplanade or a mapped public place which is protected by the regulations of this Chapter. "Scenic views" shall be limited to:

- (a) distant landscape of scenic grandeur which contains *natural features* such as hills, palisades or similar features; or
- (b) outstanding views of large bodies of water such as rivers, streams, lakes, harbors, waterfalls or similar aquatic features; or
- (c) panoramic views of the waterfront profile of the skyline formed by manmade and natural elements.

The minimum distance between the *scenic view* and a *view reference line* shall be at least 1,500 feet, and shall not contain distractions which reduce the quality of such views. The specific view to be preserved under the regulation of this *Special Scenic View District* shall be described and made part of this Chapter.

View Reference Line

The "view reference line" is a line within a mapped *public park* or an esplanade or a mapped public place from which at any point an outstanding *scenic view* may be observed. *View reference lines* and their elevation applicable to each *Scenic View District* are to be located and identified and made part of this Chapter.

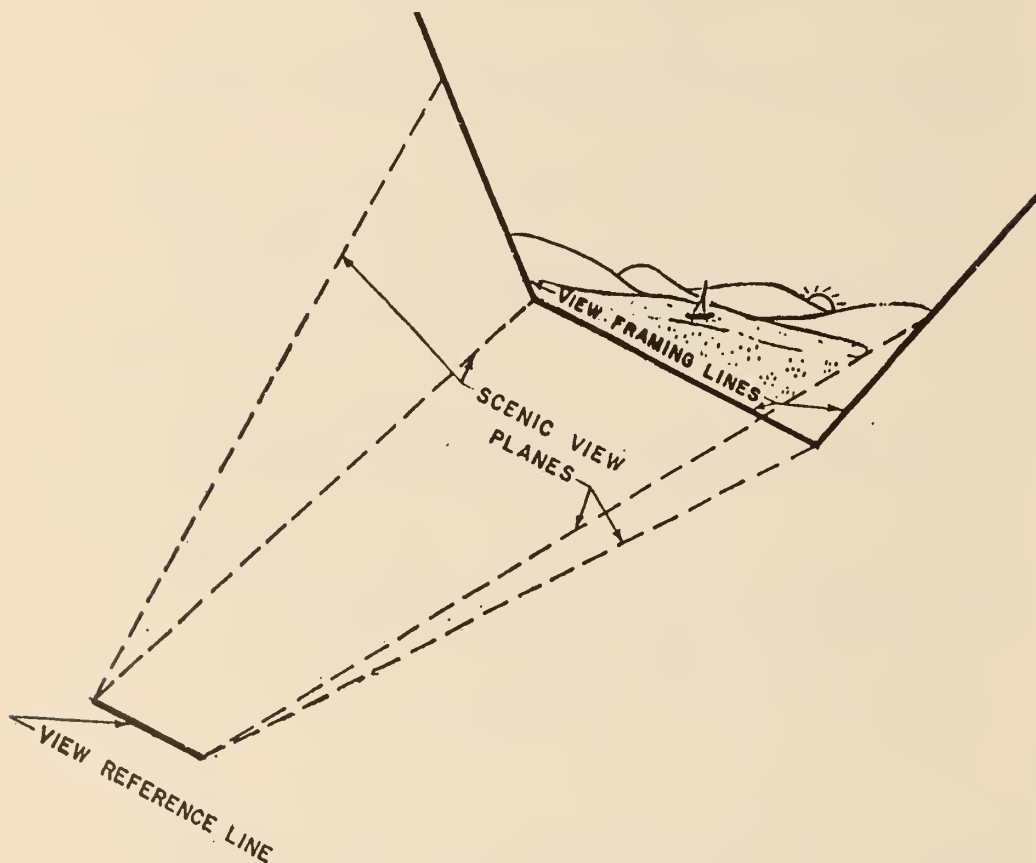
The mapped *public park* or an esplanade or a mapped public place in which such *view reference line* is located shall be directly accessible from a street.

View Framing Line

The "view framing lines" are lines which establish the outer edge of the *scenic view* to be protected. For each *scenic view*, the *view framing lines* and their elevation are to be located and identified and made part of this chapter.

View Plane

A "view plane" is an imaginary plane above which no obstructions shall be permitted within a *Special Scenic View District* unless authorized by the Commission. Such view planes are established by joining the *View Reference Line* with the *View Framing Lines* as illustrated below:



View planes and their elevation, length and slopes applicable to each *Scenic View District* are to be located and identified and made part of this Chapter.

Special Scenic View District (repeated from Section 12-10)

The "Special Scenic View District" is a Special Purpose District designated by the letters "SV", in which special regulations set forth in this Chapter apply to all *developments, enlargements, and signs*. Each *Special Scenic View District* shall appear on the *zoning maps* superimposed on other districts, when designated, and its regulations supplement or modify those of the districts on which it is superimposed. The *Special Scenic View District* is that portion of the area beneath a *view plane* where the regulations of this Chapter shall apply. The *Special Scenic View District* includes any district whose designation begins with letters "SV". The boundaries of each *Special Scenic View District* shall be described and made part of this chapter.

Special Scenic View Districts may be mapped only in areas where the control of the height of a *building* or *other structure* and *signs* is necessary to preserve outstanding *scenic views* from a mapped *public park* or an *esplanade* or a mapped public place.

102-02

General Provisions

In harmony with the general purpose and intent of this resolution and the general purposes of the *Special Scenic View District*, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as so modified, each *development* or *enlargement* within a Special District shall be subject to all the applicable regulations of the underlying districts.

102-021

Requirement for application

An application to the City Planning Commission for special permit respecting any *development*, or *enlargement*, pursuant to Section 102-30 within the Special District, shall include maps, plans or other documents showing topography, elevations, and site plans showing arrangement and spacing of *buildings* and *other structures* and other information necessary to determine the impact of this *development* proposal on the *scenic view* to be protected.

102-022

Action by the Board of Estimate

The Resolution of approval by the City Planning Commission, together with a copy of the application for the grant of a special permit, shall be filed with the Secretary of the Board of Estimate, and the Board of Estimate shall act upon such Resolution in accordance with the provisions of Section 200 of the New York City Charter.

102-023

Relationship to public improvement projects

In all cases the Commission shall deny a special permit application whenever the *development* will interfere with a public improvement project (including highways, public *buildings* or facilities), redevelopment or renewal projects, or rights-of-way for sewers, transit, or other public facilities) which is approved by or pending before the Board of Estimate, the City Planning Commission, or the Site Selection Board as determined from the calendar of each such agency issued prior to the date of the public hearing on the application for a special permit.

102-10 HEIGHT REGULATIONS FOR BUILDINGS, SIGNS OR STRUCTURES

Notwithstanding any other provisions of this resolution, the highest projection of any *building* or *other structure* hereafter constructed, or of any *sign* hereafter erected, or of any existing *building* or *other structure* hereafter relocated, *enlarged* or *reconstructed* shall not penetrate a *view plane* unless authorized by the City Planning Commission pursuant to Section 102-30 (SPECIAL PERMIT PROVISIONS).

102-20 MANDATORY LANDSCAPING PLAN

The requirements of this section shall apply to *zoning lots*, any portion of whose finished ground elevation is within 30 feet of the elevation of the *view plane* located above the *zoning lot*. At the time of filing with the Department of Buildings, for any application for an excavation permit or a

building permit for a *development* or *enlargement* or site improvement on such *zoning lots* within a *Special Scenic View District*, a landscaping plan shall be submitted to the Commission indicating that future landscaping on the site will not impair *scenic view* from the *view reference line*. Such plan shall indicate existing topography, trees, shrubs, *buildings* and *other structures* and proposed landscaping. All future landscaping on the site shall be in accordance with the approved landscaping plan on file with the Commission. The Commission shall submit a copy of the approved landscaping plan to the Department of Buildings.

102-30 SPECIAL PERMIT PROVISIONS

On all *zoning lots* located entirely or partially within a *Special Scenic View District*, the City Planning Commission, by special permit after public notice and hearing, and subject to Board of Estimate action, may permit penetration by a *sign*, *building*, or other structure of a *view plane*, allow in R1 and R2 Districts attached and semi-attached *single-family residences*, and allow in R3-1 Districts attached *single-family* or *two-family residences*, and grant minor modifications of *open space*, *lot coverage*, *yards* and height and setback regulations of the underlying district. As a condition for such modifications, the Commission shall find:

- (a) that any penetration of a *view plane* shall not significantly obstruct the *scenic view* which is to be protected by the provisions of this Chapter; and
- (b) that any penetration of a *view plane* will cause the minimal obstruction consistent with reasonable *development* and *bulk* distribution on the *zoning lot*; and
- (c) that any *use* and *bulk* modifications on a *zoning lot* will not affect adversely any other *zoning lots* outside the *development*, by restricting access of light and air.

In reaching a determination for such modifications, the Commission shall be guided by the description of the *scenic view* to be made part of this Chapter at the time of the designation of a *Special Scenic View District*.

The Commission may prescribe appropriate conditions and safeguards to protect the *scenic view* and to minimize the adverse effects on the character of the surrounding areas.

102-40 SPECIAL DISTRICT DESIGNATION ON PUBLIC PARKS

When a *Special Scenic View District* is designated on a *public park* or portion thereof, any future landscaping, erection of new *signs*, *buildings* or other *structures* thereon shall not penetrate a *view plane* unless authorized by the City Planning Commission. As a condition for such authorization, the Commission shall find that any penetration of a *view plane* shall not significantly obstruct the *scenic view* which is to be protected by the provisions of this Chapter.

102-50 SPECIAL PROVISIONS FOR CITY-OWNED LANDS

For any *development* or site *improvement* on a city-owned *zoning lot* located within a *Special Scenic View District*, the provisions of this Chapter shall apply except that modifications permitted under Section 102-30 (Special Permit Provisions) may be approved by authorization of the City Planning Commission.

The New York Department of City Planning worked with the consultants on many aspects of this report and the legislation derived from it.

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